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# THE CITY FOR THE PEOPLE

OR

## THE MUNICIPALIZATION OF THE CITY GOVERNMENT AND OF LOCAL FRANCHISES

BY

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REVISION AUGUST, 1901

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C. F. TAYLOR

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Lan-  
 guage is  
 a growth rather  
 than a creation. The  
 growth in our vocabulary  
 is seen in the vast increase in size  
 of our dictionaries during the past cen-  
 tury. This growth is not only in amount, but  
 among other elements of growth the written forms  
 of words are becoming simpler and more uniform. For  
 example, compare English spelling of a century or two cen-  
 turies ago with that of to-day! It is our duty to encourage and ad-  
 vance the movement toward simple, uniform and rational spelling. See the  
 recommendations of the Philological Society of London, and of the American  
 Philological Association, and list of amended spellings, publisht in the Century  
 Dictionary (following the letter z), and also in the Standard Dictionary, Webster's Dic-  
 tionary, and other authoritative works on language. The tendency is to drop silent letters in  
 some of the most flagrant instances, as ugh from though, etc., change ed to t in most places where  
 so pronounced (when it does not affect the preceding sound), etc.

The National Educational Association, consisting of ten thousand teachers, recom-  
 mend the following:

"At a meeting of the Board of Directors of the N. E. A. held in Washington, D. C.,  
 July 7, 1898, the action of the Department of Superintendence was approved, and the list  
 of words with simplified spelling adopted for use in all publications of the N. E. A.  
 as follows:

tho (though);	program (programme);
altho (although);	catalog (catalogue);
thoro (thorough);	prolog (prologue);
thorofare (thoroughfare);	decalog (decatalogue);
thru (through);	demagog (demagogue);
thruout (throughout);	pedagog (pedagogue);

"You are invited to extend notice of this action and to join in securing the general  
 adoption of the suggested amendments.—IRWIN SHEPARD, Sec'y."

The publisher of this Series feels it a duty to recognize  
 the above tendency, and to adopt it in a  
 reasonable degree.

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 1901

## PREFATORY NOTE.

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THE people of this country have been very slow to appreciate the value of public franchises. The shrewd capitalist has been quick to note the rapidly growing values and the great possibilities in this direction, and he has also been alert to get the aid of politicians in securing privileges that should belong only to the general public. The rapid building up of private fortunes in this way has at last opened the eyes of many communities regarding the importance of public ownership of public utilities, such as water, gas, electrical lights, street railways, etc., in cities and towns. During the winter and early spring of 1897 I began to notice that certain towns in some of the States were anxious to own and operate their water works or gas works, but that they were obliged first to obtain permission from the Legislature. I at once realized that the most important thing to do in aid of the cause of Public Ownership of Public Utilities was to learn to what extent municipalities are in bondage to the Legislature in the various States, and to show the importance of obtaining municipal freedom as the first step.

As my friend, Prof. Frank Parsons, of the Law Department of the Boston University, had already given extensive study to municipal problems, I wrote to him asking if he could undertake the task of examining the Constitution and Statute Laws of each State in reference to the rights and privileges of cities and towns. My plan was to have this information tabulated, one table showing the constitutional bearings, and the other table showing the statutory bearings upon this question, preceded by introductory text and followed by explanation. I hoped thus to get the whole question in this condensed form into the limits of a magazine article. The task was a great one, but finally the Professor consented to undertake it, with suitable assistants under his direction. The work was necessarily slow, and waiting for the latest Acts of the Legislatures still further retarded the work. As the work grew,

the Professor despaired of getting the results into the limits of a magazine article. In the meantime I had planned a series of volumes, to be called "Equity Series," to deal with leading public questions. In the early autumn of 1898, after mature consideration, the Professor and I concluded to incorporate this subject in one of the volumes of "Equity Series," along with other chapters dealing with other basic and vital municipal problems. This volume is the result.

Municipal government is the problem of the age. It touches us in our daily lives a dozen or a score of times while the State or National government touches us once. The condition of the water we drink and with which our food is cooked, the condition of the air we breathe, and of the streets upon which we walk or ride, is determined largely or entirely by our local government; and also the public order, public education, public conveyance of all kinds, and other important matters too numerous to mention, are determined by our local government. Let us learn to solve our local problems well, and in the interest of all.

C. F. TAYLOR.

PHILADELPHIA.



## AUTHOR'S PREFACE.

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THE city is the condensation of the ages; the aggregation of all that is best in civilization, and all that is worst in the remnants of barbarism. The rapid growth of our cities and the monopoly of their advantages by a few political and industrial schemers, are among the most vital facts of the time. The citizen sovereigns of America dealing with city life are confronted with questions like these:—Shall the People's cities be given over to syndicates and corporations? Shall five hundred thousand or a million people build costly streets and then give them to gas and electric trusts, and street railway companies for the private profit of a few individuals? Shall other cities and towns all over the State, or their Representatives in the Legislature, have more to say about the

Shall the people own the city and its government or shall they be owned by the politicians and monopolists?

management of this city's local business affairs than its own people have? Shall Councils have power to govern the city against the people's will or only in accordance with the people's will—shall they have power to legislate in spite

of the people's protest, and to refuse legislation in spite of the people's demand? Shall the spoils system control appointments to the great confusion and inefficiency of the service? Shall rings and bosses, machines and lobbyists, corporations and monopolists continue to have large influence in municipal government? And if all these things are not to be allowed, then by what means may they be prevented?

This book is an attempt to answer some of these questions, and the chapters that deal with municipal liberty, public ownership, and direct legislation, outline some of the principal means by which a city may become a city for the People and not for the Politicians

Divisions of the book.

and Monopolists. Civil service reform, proportional representation, the electric ballot and the English corrupt practices act, are treated

more briefly afterward, and finally statutes, charter provisions, and

constitutional amendments are given in full for the three leading movements. In the prelude all parts of the book are co-ordinated by a discussion of the fundamental facts and principles on which the main thought of the book is based.

The volume was begun at the request of Dr. Taylor; its general plan is substantially the one proposed by him, and in the working out of the plan his criticisms and suggestions have been of the greatest value. Some repetition has resulted from the effort to do justice to each topic in its turn, but we think the reader will find this method very favorable to a thoro grasp of the subjects treated.

FRANK PARSONS.

BOSTON.

#### A SPECIAL WORD.

The reader is urged to use the index in all studies, not only because of its helpful analyses, but in order that he may avail himself of the latest notes, and catch all additions to, and modifications of, the earlier statements relating to the topic he is investigating.

See "NOTES" and "LATEST NOTES" in index.

## PRELUDE.

The problem of the city is the problem of civilization. In 1790 only 1-30th of the people of the United States lived in cities; in 1890 about one third of our population lived in cities of eight or more thousand inhabitants.<sup>1</sup> That is, we must multiply the ratio of 1790 by ten in order to get the ratio of 1890. An equal movement for another hundred years would make the city population three times as large as the total population of the country. The growth of cities will probably stop short of that predicament, but the stampede from the country is likely to continue with decided vigor for a considerable period.

Automobiles, motor bicycles and possibly flying machines, with papier-machè, liquid-air engines, will make it easy to travel fifty or sixty miles an hour in your own conveyance. No respectable family will be without its automobile or flying machine, and motor bicycles will be as thick as mosquitoes on the Jersey coast. The country will be covered with a network of magnificent highways,

<sup>1</sup>One of the most momentous and expressive movements in modern history is the persistent, restless, and marvelously rapid absorption of the rural population into city life. Read carefully the census records and then let imagination carry you into the future:

### *Proportion of Population of U. S. living in Cities over 8,000.*

Year.	Fraction of total pop.	Percentage of total pop.
1790 .....	1/30.....	3.35
1800 .....	1/25.....	4.
1810 .....	1/20.....	5.
1820 .....	1/20.....	5.
1830 .....	1/16.....	6.5
1840 .....	1/12.....	8.
1850 .....	1/8.....	12.
1860 .....	1/6.....	17.
1870 .....	1/5.....	20.
1880 .....	1/4.....	22.5
1890 .....	1/3.....	29.2

The record indicates that more than a third of our people now live in cities, and doubtless half the population will soon be urban. If towns are included the really rural population is already a minor and rapidly diminishing fraction. In Scotland the rural population is diminishing absolutely as well as relatively—being only 928,500 out of a total of 4,000,000 in 1891. But the most astonishing and thought compelling facts of all in this relation are those that concern the growth of some of our largest cities. I insert a couple of hints:

Population of Chicago.		Population of New York	
1840 .....	4,700	1800 .....	60,000
1880 .....	503,185	1880 .....	1,206,299
1890 .....	1,029,850	1890 .....	1,515,304
1900 .....	1,700,000	1900 .....	2,404,000
Greater New York .....		1900 .....	

Greater New York does not include Jersey City, which has a population of more than 200,000, wherefore the whole city at the mouth of the Hudson num-

broad and smooth, and lined with beautiful trees, and the farmer can live in the city or near it and go to his fields every morning and back at night on his own automobile or liquid air bicycle.

Invention is building the cities in another way. Modern machinery enables four men to plant, raise, harvest, mill and deliver to the bakers flour enough to feed a thousand men one year, and the end is not yet. Electricity is coming to the farmer's help. It is found that electrifying the seeds will increase the yield 50 per cent.; electrifying the atmosphere increases the crop 70 per cent.; electrifying the ground has increased the product 300 per cent. Why not electrify all three? Why not electrify the hired man and the hired girl? If we get this system into general use and electrify the seeds and the ground and the atmosphere, and then go further and electrify the hired man and the hired girl—by giving every youth a thorough practical education, making every worker a partner in the business and cultivating a true civic patriotism

bers over 3,600,000, a growth of 60-fold or more in a century. Chicago appears to have doubled itself in about 10 years from 1880 to 1890. It increased 250-fold in 50 years and would make a record of over 2,000-fold in a century if its present rate of development continued till 1940.

Since the above was put in type except the 1900 data, Columbia University has published a 500 page book, by Dr. A. F. Weber, about the "Growth of Cities" all over the world and some of the facts are of so much interest in this connection that I condense a few of them in the following paragraph:

In the whole United States 210,873 people lived in 6 cities in 1800, whereas 18,284,385 lived in 448 cities in 1890. While the population of the whole country has increased 12 fold in this century, the urban population has increased 87 fold. The rapid increase began with the era of canals in 1820, and swelled in the thirties and forties with the advent and development of railroads. The decade ending 1850 lacked but 1 per cent. of doubling the city population. In the fifties the gain was 75 per cent., in the sixties 59 per cent., in the seventies 40 per cent., in the eighties 61 per cent. From 1880 to 1890 our manufactures grew enormously, the capital, number of employees, and net value of product increasing 100 per cent. over the preceding decade, and with this growth the number of towns and cities of 8,000 population or more rose from 286 to 448, with a lift of population from 11,318,547 to 18,284,385 persons. One-half the urban population of the United States is in the North Atlantic States and four-fifths in the territory north of the Ohio and Missouri rivers. In Massachusetts, Rhode Island, New York and New Jersey more than half the people live in cities, and twelve other states have more than a quarter of their inhabitants in cities. Dr. Weber gives the following table to show the growth of cities in the United States. He begins with cities of 10,000 population instead of with cities of 8,000 as in my table at the beginning of this note.

<i>Classes of Cities.</i>	1800		1850		1890	
	<i>No.</i>	<i>Population.</i>	<i>No.</i>	<i>Population.</i>	<i>No.</i>	<i>Population.</i>
100,000+ .....	.....	.....	6	1,393,338	28	9,697,960
20,000—100,000.....	5	201,416	24	878,342	137	5,202,007
10,000—20,000.....	.....	.....	36	495,190	180	2,380,110
Total, 10,000+.....	5	201,416	66	2,766,870	345	17,280,077

In this country 28 per cent. of the people live in cities of 10,000 or more inhabitants; 24 per cent. in cities of 20,000 or more, and 15 per cent. in cities of 100,000 or more. England and Wales are further on the road—62 per cent. of their people live in cities of 10,000 or more; 54 per cent. in cities of 20,000 or over; and 32 per cent. in cities of 100,000 or more. Scotland, Belgium, Netherlands, Saxony, Prussia and Australia also have a larger percentage of their people in cities than we have. The rate of advance is so great, however, with us, and the growth of business and invention so enormous that the United States may very likely overtake the older nations in the march of city development as it has in so many other lines of development. Massachusetts already has 66 per cent. of its population in cities of 10,000 and over.



and lofty ideal of devotion to individual and social service,—if we do all this along with the coming improvements in transportation, the time will come when 1/100 of the people can do the entire agricultural work of the country, and even they can enjoy the advantages of city life, so that the *whole* population will be substantially urban.

With the concentration of population has gone the concentration of wealth. A hundred years ago wealth was quite evenly distributed here. Now one-half of the people own practically nothing,—one-eighth of the people own seven-eighths of the wealth, 1 per cent. of the people own 50 per cent. of the wealth, and 1/200 of 1 per cent. own 20 per cent. of the wealth, or 4000 times their fair share on the principles of partnership and brotherhood.

A hundred years ago there were no millionaires in the country, now there are more than 4000 millionaires and multimillionaires, one of them worth over 200 millions, and the billionaire is only a question of a few years more! Already, it is said, we have a billion dollar trust; hundreds of others from ten millions up, and a total trust and combine capitalization in the neighborhood of eight or ten billions, and all this congestion of wealth and power is centering in the cities.

The problem of the city is the problem of the future, and the problem of the city is the problem of monopoly. Diffusion is the ideal of civilization—diffusion of wealth and power, intelligence, culture and conscience. Instead of this we have private monopoly of wealth, private monopoly of government, private monopoly of education, private monopoly even of morality and the conditions of its production. Combination, integration, union are most excellent if their benefits are justly distributed—integration *plus* diffusion, or union for the good of all, is the problem of the 20th century.

We shall not attempt in this book to deal with the whole problem of diffusion. The case of *The People vs. Monopoly* is too big for full treatment in a volume of this size, so we shall confine ourselves to a few of the chief institutional aspects of the movement toward a more perfect democracy or self-government in political and industrial affairs, private monopoly in politics and industry being the central and most threatening evil of our time.

Self-government is the basic principle of our institutional jurisprudence, resting upon historic and philosophic proof that justice and liberty demand self-government, and that the management of their own affairs is one of the most powerful means of elevating and educating the people.

Free institutions are institutions that embody the principle of self-government, and the freest institutions are those that carry self-government nearest to perfection, reducing to a minimum all external control. So fundamental is the principle of self-government in our law that it is held by high authority to be *inherent* in our system of government, underlying and permeating our constitutions and rendering void all legislation in conflict with it, even tho

such legislation may not be objectionable in the right of any express provision of the constitution under which it is enacted.<sup>2</sup>

But while it is clear that free institutions must be founded on self-government, and our constitutions, statutes and theories of government are saturated with the idea, yet the law does not apply the principle consistently thruout. In several respects the application is defective, the three following being within the scope of this book:

1. As to *arcas*. The law recognizes the right of self-government in respect to state and nation, but not in respect to cities. Municipal corporations are creatures of the legislature. They have only such powers as are given to them by the legislature, which may, at its pleasure, abridge or annul their powers and privileges; divide them or consolidate two or more of them into one without their assent, attach a condition to their continued existence or abolish them completely.

The principle of self-government requires that a city should be as free and independent in its sphere as states and nations are in theirs. A state has no more right to impose its judgment on a city in respect to the city's internal business than the nation has to impose its judgment on a state in regard to the internal business of the state. The true rule is that national interests should be governed by the nation; the state's peculiar interests by the state; the city's special interests by the city, and the individual's personal interests by himself, the presumption being always with the lower group and the principle of decentralization. Individual liberty should be left as large as possible, personal freedom being curtailed only where the public good clearly requires it. In the field of public action as much as possible should be left to the cities and towns, no business being given to state control except such as the clear interests of the state require to be so placed; and lastly, no powers should be exercised by the national government except such as are necessary for purposes and interests of national moment.

The full control of streets, the power to grant or withhold street franchises and the right to own and operate local public utilities should belong to each city secure from the possibility of legislative interference. The line between state and municipal action should be drawn in each state constitution as carefully as the line between state and national action is drawn in the Federal Constitution. A limited sphere of local activity should be clearly marked off and deeded to local self-government, beyond the reach of the legislature; and outside the special local sphere a city should be free to act as it may see fit, so long as it does not violate a valid law of the nation or state, reversing the present rule and making a city free to act except where justly prohibited, instead of being prohibited except where it has received *permission* to act. Another

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<sup>2</sup> Judge Cooley in *People vs. Detroit*, 28 Mich. 228; see also *People vs. Hurlbut*, 24 Mich. 44; *State vs. Denny*, 118 Ind. 382; *Evansville vs. State*, 118 Ind. 426.

plan would be to follow the method of the national constitution, and specify in the constitution of the state, the powers to be exercised by the legislature, and the guarantees to be observed in respect to individual liberty, and then leave the whole residual sovereignty to the municipalities.

Some of our states have gone far toward the accomplishment of *Municipal Home-Rule* by constitutional amendments enabling cities to make their own charters. But these *home-made charters* are still for the most part subject to legislative control, and *municipal liberty* will never be complete till the city has the right to manage its local business affairs according to its own discretion.

2. As to *departments of life*. The law declares in favor of securing self-government in political affairs, but comparatively little effort is made to obtain self-government in industrial affairs. Yet the application of the principles of self-government and democracy is just as necessary to liberty, justice and development in the latter case as in the former. Oppression by an aristocracy of industrial monopolists is as bad as oppression by an aristocracy of political monopolists. The educating and elevating effects of managing their industrial affairs are as valuable to the people as the educating and elevating effects of managing their political affairs; in fact, some of the most developing and most creditably handled subjects in municipal government have been the making of roads, managing of schools, supply of water, gas, electric light and other public utilities. An important proviso, however, must not be overlooked. The whole body of people affected by a street railway service, for example, may properly decide all questions relating to it, *provided* they have first acquired in an equitable way the *right* to control it, and not otherwise. This makes it clear that we cannot in fairness expect a large measure of industrial self-government under existing ownerships, but it may be obtained thru public ownership in the case of monopolies, and, in other cases, thru the development of copartnership and voluntary co-operation. Private owners who are public spirited or even intelligently selfish will open the door to labor-copartnership, and aid the growth of co-operation and public ownership, and may even confer industrial suffrage on the workers as a gift where good conditions make immediate emancipation wise; much may be accomplished also thru the efforts of the workers to become part owners thru public ownership and co-operation; but the main dependence must be the growth of enlightened public sentiment thruout the community, an awakening of the whole people to a realizing sense of the justice and expediency of co-operative industry and the public ownership of public utilities.

3. As to *methods*. The principle of self-government, even when applied, is generally very imperfectly carried out. We have not even political government by the men to any considerable extent.

In cities we have government by councils.

In states we have government by legislatures.

In the nation we have government by congress.

The people have little direct efficient control. They are sovereign *de jure*, but not *de facto*, except at election time. The actual power exercised by the people consists chiefly in the periodic choice of a new set of masters, who can make laws to suit themselves, and enforce them till their term is up, regardless of the will of the people. We are governed by an *elective aristocracy*, which, in its turn, is largely controlled by an aristocracy of wealth. Behind the legislatures and congresses are the corporations and the trusts; behind the machines, the rings and the bosses, are the business monopolies, the industrial combinations and the plutocrats; behind the political monopolists are the industrial monopolists.

The principal remedy under this third division is Direct Legislation, which is, indeed, of vital importance under every division, because it opens the door for every other reform. No one who really believes in self-government can refuse to support the initiative and referendum, for they merely enable the people to veto laws they don't want and secure laws they do want, i. e., they enable the people to govern themselves.

Restating in brief the remedies mentioned, with some others closely related to them, we have:

1. Home rule for cities in local affairs.

2. Direct Legislation, or the initiative and referendum, with which we may name civil service reform, proportional representation, preferential voting, the electric ballot, equal suffrage, efficient corrupt practices acts and the popular recall, all of which are necessary in order that the people may really own and operate the government under conditions most likely to secure wise legislation and honest, intelligent and economical administration.

3. Co-operative business and public ownership of industrial monopolies, remembering that *government* ownership of industry is not *public* ownership of it, unless the people own the government. Public ownership of the government is essential to real public ownership of industry, and public ownership of government involves Direct Legislation and civil service reform, wherefore these must be a part of every thorough and reliable plan for the public ownership of industrial monopolies. On the other hand, an advance in public industry, or even in government ownership of industry, tends to aid the movement toward good government in two ways: First; It helps to do away with the private corporations, which are probably the chief corrupting influence, and certainly one of the leading obstacles to good government in our cities to-day; and Second; it increases the importance of governmental affairs and intensifies the disasters resulting from corruption, partisanship and the spoils system, and so rouses the interest of the citizens and impels them to demand reforms that will guarantee pure and efficient management. Wherefore, except under specially adverse circumstances, sufficiently powerful to overcome the effects just named, *government* ownership of industrial monopolies tends toward good government and *public* ownership of monopolies, both



of which tend, of course, to the diffusion of wealth and power and the realization of a more perfect democracy.

4. To push all these and other reforms, non-partisan leagues should be formed in city, state and nation, to educate the people, turn on the light in dark places, give the facts persistent and judicious emphasis, permeate all parties with the truth, call false officials to account, sustain men who do their duty and develop a civic conscience that will make every public service a sacred trust.\*

In education lies the final hope, for at bottom it is a new intelligence and a new ideal, that must be relied on to mould the real to a more perfect form. Individual development forces a change in the laws, then better institutions help to develop a nobler manhood. By such interaction civilization is built up.

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\*For information concerning such organizations address Samuel B. Capen, "Municipal League," Boston; Edwin D. Mead, Prest. "Twentieth Century Club," Boston; Dr. Charles B. Spahr, Prest. "Social Reform Club," New York; Hon. Clinton Rogers Woodruff, Sec. "Municipal League of Philadelphia," and of "The National Municipal League," Girard Bldg., Philadelphia; Hon. John MacVicar, Ex-Mayor of Des Moines, Sec. "League of American Municipalities;" Eltweed Pomeroy, Newark, N. J., Prest. "Direct Legislation League;" Rev. W. D. P. Bliss, New York City, Prest. "National Social Reform Union;" also the "Citizens Union" and the "City Club," New York; "Citizens Municipal Association," Philadelphia, and the "Civic Federation," "Citizens' Association" and "Municipal Voters' League," Chicago. Civic service associations and proportional representation leagues will be referred to hereafter.

The books and pamphlets issuing from the offices of President Mead and Secretary Woodruff, together with the works of Dr. Albert Shaw on "Municipal Government" in Europe, and the writings of Professor Goodnow, constitute invaluable contributions to municipal literature, and if it were not that I had a share in its composition I should include "Municipal Monopolies," edited and partly written by Professor Bemis, as quite indispensable to students of city problems. For current matter the official publications of the various cities, and such periodicals as "Municipal Affairs," "City Government," "The Review of Reviews," "The Outlook," and "City and State," are of the greatest use. All the great monthlies contain occasional matter of moment in this relation, and finally no student of progress can afford to overlook Dr. C. F. Taylor's "Monthly Talks" in "The Medical World," or "The Direct Legislation Record," edited by President Pomeroy.

## PRIVATE MONOPOLY. 1.

The most pressing problem of the age is the problem of monopoly. Private monopoly means privilege, unequal rights, breach of democracy; it means congestion of wealth and power and opportunity; antagonism of interest between the owners and the public, and power to make that antagonism effective. The monopolists aim at profit; the public desires service at low cost. Competition generally tends to low rates, but monopoly in private hands tends to extortionate charges and unjust profits. To secure and protect such profits, monopolists corrupt legislatures and councils, water stock, hide their books, issue false accounts, make fraudulent contracts, bribe public officers, control elections and appointments, perpetrate all manner of frauds on the public, oppress their employees, resist regulation and defy the law. Yet with all its evils monopoly has the great advantage of saving the duplications, debasements and wastes of competition. The problem is to keep the advantages and get rid of the disadvantages. Competition cannot do it since it forfeits the advantages and is moreover impracticable and unmaintainable where men have once learned the benefits of unified industry. Regulation will not afford a full solution of the problem because (1) it cannot remove the antagonism of interest between the owners and the public, which is the main root of monopoly evils; (2) it cannot eliminate the congestion of benefit, tho it may modify this congestion; and 3) it cannot prevent the existence of a privileged class. You have still *antagonism, congestion and aristocracy, instead of harmony, diffusion and democracy*. Regulation can do something, but it cannot attain to harmony of interest, or full diffusion of benefit, or equal rights and true democracy.

A private gas plant or street railway will be run in private interest. It is a fundamental maxim of business that property is to be managed in the interest of its owners. If the people want the street railways run in their interest they must own them. Public utilities ought to be managed in the public interest, and not in any private interest, and therefore ought to be owned by the public. The very men who manage the great monopolies in the interest of their private owners now, would manage them equally well for the public if the public were the owner. But if you leave the private interests, which have the managers heart-allegiance succeed, the managers will use all their power to evade or nullify the law, or control the law-making and law-executing officers in the interest of the private owners who employ and pay them, and for whose pockets they are bound to work under the business ethics of the day. If the public should, thru regulative measures, succeed in taking the control, which is the essence of ownership, so as to compel a management in the public interest, we should have something resembling public ownership by coercion (with borrowed capital and private election of the immediate managers to be watcht and controlled by another set of officers chosen by the public) until the struggling private interests, which have the managers heart-allegiance, succeed in evading or defeating the law; and if regulation does not go so far as to take the vital control, the substance of ownership, and establish a mongrel public ownership by confiscation—if any margin of power is left the managers to serve the interests of those who still hold the private title to the property, that power will be used to make the still existing antagonism of interest effective against the public. Regulation leaves one set of men to do the work with vast wealth and power in their hands and every interest to do the work the way we don't want it done, and puts another set to watch the first and keep them from doing it their way, creating thereby the strongest motives for the monopolists to buy up or capture the regulators, control their appointments, or corrupt the government above them. We leave the antagonism, and drive the evils it causes deeper into the dark, alleviating some of them and intensifying others. Instead of our governments controlling the great monopolies, they are controllig our governments.

Public ownership, complete and real, brings harmony of interest between owners and the public by making them identical, makes every citizen a partner in the business, thus securing the maximum diffusion of benefit, complete democracy and equal rights. It eliminates the disadvantages above mentioned and keeps the advantages, adding new ones of its own and creating no new difficulties, if, as stated, it is *real* public ownership with the referendum and merit system of civil service, and not mere government ownership where the spoils system and legislation by final vote of delegates make the government itself a private monopoly.

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## PRIVATE MONOPOLY. II.

John Stuart Mill observed that monopoly of essential services involved the power of levying taxes on the community. It may be noted further, that these monopoly taxes are not levied for public purposes nor by the people or their representatives as all good taxes should be. The monopolists, or controlling owners and managers of private monopolies, not only exercise the sovereign power of taxation, but the despotic power of taxation without representation and for private purposes. If the matter had been properly considered, every grant of a monopolistic franchise or privilege would have been held void ab initio upon the fundamental principles of justice and the common law, because it involved a grant of sovereign and ultra-sovereign power to private parties. A monopoly controlled in private interest is sovereign power in private hands. Only the sovereign people have a right to monopoly, for only the people have a right to the sovereignty involved in monopoly, and only public ownership can transform the monopolistic power of taxation into a power of taxation with representation and for public purposes, instead of taxation without representation and for private purposes.

Not only do the monopolists exercise the power of taxation without representation; they also in large degree determine the distribution of wealth, decide which industry, which class, which individual, which community, shall prosper, and which shall not; make and unmake the fortunes of persons, streets, cities and states; direct the government and control legislation. Thus again we find monopoly giving its owners sovereign powers, wherefore again we say that only the people have a right to own a monopoly, for only the people have a right to sovereign power. Monopoly we are bound to have; it is an economic necessity; the only question is, shall the people own the monopolies, or shall the monopolies own the people?

Public ownership of water, gas, electric light, transit, telegraph and telephone systems, etc., is simply ownership by a large body of citizens instead of ownership by a small body, many stockholders in place of few, and equal instead of unequal holdings, whereby the benefits of industry are more evenly diffused, and the conflict of interest between the owners and the public is eliminated by making the owners and the public one and the same. It is democracy and union in place of aristocracy and antagonism.

The change of monopoly from private to public ownership and control means a *change of purpose* from *dividends for a few* to *service for all*. And this change of purpose resulting from unifying of the interests of owners and the public, is the source of the improvements experienced under public ownership in respect to cheaper and better service, purer government, better paid and more contented labor, superior citizenship and a fairer diffusion of wealth and power. Civilization, manhood, and even the public safety, demand the change. (See Chap. I and Appendix II e.)

## CHAPTER I.

### PUBLIC OWNERSHIP.

In dealing with this question we note with special emphasis the most important fact that *public* ownership and *government* ownership are by no means synonymous. Russia has government ownership of railroads, but there is no public ownership of railroads in Russia because the people do not own the government. Philadelphia has not had real public ownership of gas works because the people do not own the councils. Where legislative power is perverted to private purposes—where the spoils system prevails and the offices are treated as private property—where government is managed in the interest of a few individuals or of a class, anything that is in the control of the government is *really* private property, altho it may be *called* public property. If councils and legislatures are masters instead of the people, they are likely to use the streets and franchises for private gain instead of the public good. If the government is a private monopoly, everything in the hands of the government is a private monopoly. At the heart of all our philosophy about the public ownership of monopolies lies the necessity for public ownership of the government. The monopoly of making and administering the law underlies all the rest. If the people are to own and operate water works, street railways and other industrial monopolies, they must own and operate the government. It follows that the merit system of civil service and the initiative and referendum are absolutely necessary to real and complete public ownership; the latter to prevent private monopoly by abuse of legislative and judicial power, the former to prevent private monopoly by abuse of official and administrative power. The legal title to property may be in the city or state, and the people may get the whole beneficial use of it thru the action of honest legislators and officials, but

no *reliance* can be placed upon the continuance of such results if the doors are open for perversion of legislative and administrative power. Control is the essence of ownership, and unless the people have the ultimate control constantly in their own hands, so that they can compel prompt obedience to their will, and enforce the management of public affairs in their interest, the soul of ownership is not theirs in spite of the paper title. It is of vital importance to keep in mind the fact that public ownership of industrial monopolies requires public ownership of the government, and that this involves direct legislation and a strict, nonpartisan merit system of civil service, so that these measures are integral parts of any reliable plan of public ownership.

To state the case in another way: Government is a public utility; wherefore the doctrine of the public ownership of public utilities involves the public ownership of the government. But public ownership of the government requires direct legislation and the merit system of civil service, which are therefore essential parts of the doctrine of public ownership of public utilities.

It must not be forgotten in this connection that putting the legal title to a street railway, or other enterprise, in the people may be the means of rousing them to demand civil service reform and direct legislation, in order to transform the paper title into a real ownership, and make it certain that the property will be managed in the public interest. Such movements must be carefully managed, however, else corporate power may win the field before the public spirit or civic patriotism of the people can be sufficiently developed, and thoughtless persons may then mistake the failure of paper titles and government ownership for the failure of real public ownership.

The present demand for public ownership is largely the result of the evils experienced from private monopoly.<sup>1</sup> A

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<sup>1</sup> I say "largely" because the demand is partly due to the conviction that public ownership is the highest form of co-operation and the best means of securing *diffusion* of benefit, wherefore it is preferable to private enterprise even when honest and enlightened and free from the evils of private monopoly. For example, public education rests upon the idea that learning is more likely to be well distributed among the whole people by means of public schools than by reliance upon private institutions.



monopoly is an advantage tending to shut out competition. Monopolies in industry are of various sorts. A business or possession which by its own inherent nature tends to shut out competition is called a natural monopoly, while a privilege or immunity established by legislation or combination is called an artificial monopoly. The distinction is convenient, but it is doubtful if it has much practical value. An exclusive bridge or ferry privilege or railway franchise may constitute as absolute a monopoly as the ownership of a mine. So may an agreement for reduced rates of transportation, or exclusive supply of materials and products, or a combination shutting out competition by the weight of the capital involved and the risk of ruin in a battle with the combine. Similar evils and similar benefits appear to attend upon private monopoly in all its varying forms.

Some of the evils that often attend monopoly in private hands are excessive charges, enormous profits, watered stock, false accounting and doctored reports, poor service, disregard of safety, discrimination, fraud and corruption, defiance of law, speculation and gambling, congestion of wealth and power, lack of progressiveness, ill treatment of employes, debasement of human nature and denial of democracy. These evils do not all develop in every case. In some cases only the congestion of power is present, but, as a rule, private monopoly with nineteenth century human nature tends to produce the evils above enumerated and now to be briefly discussed.

#### THE EVILS OF PRIVATE MONOPOLY.

1. *Excessive Charges.* One reason men desire monopoly is the power it gives to charge more than a fair equivalent for the service rendered. The owner of an important bridge or ferry monopoly can make the people pay several times as much as the same labor and capital would bring in the open market, and a street railway, or gas company, or telephone company sometimes possesses more power to tax the people than the city government. A few examples will make the matter clear.



The charges of private *water* works in the United States average 43 per cent. excess above the charges of public water works for similar service,<sup>1</sup> and the public rates are, on the average, considerably above the cost of the service for which a charge is made.<sup>2</sup>

In Indiana the average revenue per family in private water works has been shown to be double the average cost of the service, as disclosed by the records of municipal works.<sup>3</sup>

Of the fifty largest cities in the country nine are supplied with water by private companies. These cities are San Francisco, New Orleans, Omaha, Denver, Indianapolis, New Haven, Paterson, Scranton and Memphis. All but three of them refused to give their receipts and expenses for Mr. Baker's Manual of American Water Works, 1897, and one of the three, Indianapolis, did not state operating expenses. San Francisco made full returns, and so did New Orleans, where the city is part owner and has an agreement that keeps the company under some restraint.<sup>4</sup>

The Indianapolis company reports:

Average consumption.....	9,000,000 gallons.
Debt .....	\$1,000,000
Capital stock .....	500,000
Interest on debt .....	\$55,000
Taxes .....	13,052
Revenue from City .....	10,000 for street sprinkling.
Revenue from City .....	64,933 for fire protection.
Gross receipts .....	273,753

Careful estimates<sup>5</sup> place the operating expenses in Indianapolis at a sum not exceeding \$80,000 with \$24,000 for depreciation, wherefore it appears that \$117,000 will cover the total expenses, aside from interest. Subtracting this from the total receipts, \$273,753, we

<sup>1</sup> Conclusion of M. N. Baker in his Manual of American Water Works, 1890. He had data for 318 public and 430 private water works all over the country, and compared the total family rentals, the total family rental being the ordinary family or household rate, plus the separate charges for water closet, bath tub, wash bowl, cow, horse and carriage, with use of hose for washing the latter, and hose for lawn sprinkling.

<sup>2</sup> The cost referred to is total cost, operating expenses, plus taxes, depreciation and actual interest paid.

<sup>3</sup> Investigation of one of Prof. Commons' students, 1890. Average revenue per family in the 23 private plants, \$9.78; average total cost per family, including interest for the 30 public plants, \$4.61, and the family consumption was nearly one-third larger in the public plants, though the population of cities having public plants ranged lower than the population of the cities having private plants.

<sup>4</sup> This Manual, made by M. N. Baker, associate editor of The Engineering News, New York city, and published by The Engineering News Publishing Co., St. Paul Building, New York, is the highest authority in the country on the subject of water works.

<sup>5</sup> The first general indication of operating cost I got by tabulating data

have a profit of \$156,000 for the capital involved. Taking out the \$55,000 interest on the debt we find \$101,000 clear profit for the monopolists who hold the \$500,000 stock, a profit of 20 per cent. a year.

The San Francisco company reports:

A bonded debt of.....	\$9,975,000
Capital stock .....	16,000,000
Of which there is paid up only.....	1,230,500
Operating expenses .....	\$376,826
Interest .....	533,838
Taxes .....	102,156
Total expenses .....	1,012,820
Revenue from consumers .....	\$1,548,835
Revenue from City for fire protection.....	137,236
Total receipts .....	1,686,071

The operating expenses, taxes and reasonable depreciation on real value of plant amount to \$660,000, which leaves \$1,026,000 profit on capital. Subtracting \$533,838 interest on the debt, we have \$490,000 clear profit for the stock, or more than 40 per cent. a year on the paid value or actual investment represented by the stock.\*

from a number of cities, and as the results are of intrinsic interest I give the table here:

	Operating Expenses	Average daily consumption in gallons	Op. Ex. indicated for 9,000,000 gal- lons av. output under similar conditions
Providence, R. I.....	\$72,091	8,905,000	\$73,000
Worcester, Mass.....	55,000	6,500,000	76,000
Springfield, Mass.....	18,478	4,638,000	36,000
Peabody, Mass.....	6,125	906,000	62,000
Columbus, O.....	64,000	14,000,000	41,000
Detroit, Mich.....	107,000	40,000,000	30,000
Toledo, O.....	35,000	8,000,000	40,000
Milwaukee, Wis.....	118,630	25,291,000	40,000
New Orleans, La.....	64,000	9,000,000	64,000
Louisville, Ky.....	71,000	16,800,000	40,000
Allegheny, Pa.....	80,000	28,000,000	30,000
Chicago, Ill.....	1,435,516	251,839,000	51,000
Boston .....	440,000	50,800,000	74,000
Philadelphia .....	1,113,470	215,000,000	46,000
New York city.....	643,000	189,000,000	31,000

Most of the plants are public. Other things equal, the proportional indications from small plants would be too high, and those from large plants would be too small. Taking into account the cost from pumping from driven wells, 300 feet deep, the use of water power and natural gas, the rate of wages, pressure, character of surface, etc., I concluded that \$80,000 was a liberal estimate for the operating cost in Indianapolis. While studying the point I tried to get an estimate from an engineer based on personal investigation of every detail of the Indianapolis situation on the spot. This I have at last succeeded in doing.

Mr. John W. Hill, a noted consulting engineer of Cincinnati, has recently investigated the Indianapolis Water Company by order of the City, and his report has been examined and approved by the City Engineer. On page 29, the operating and maintenance expenses for the year ending April 1, 1898, are placed at \$80,000. The average daily consumption for the said year was 10,260,000 gallons or  $1\frac{1}{4}$  millions more than the output stated in the Water Manual for 1897, so that my estimate of \$80,000 operating expenses for the 9 million output is a little too high. The results of the two methods of estimate are, however, remarkably similar, and I have allowed the text to stand as I wrote it before receiving Mr. Hill's report.

The income of the Indianapolis company for the year ending April 1, 1898, was \$292,561, which means a net profit of \$130,000, or 26 per cent. on the stock (after paying interest on the debt). The value of the plant is about \$1,800,000, or \$800,000 above the debt, and the percentage of profit on this is of course much smaller ( $15\frac{1}{2}$  per cent.), because several hundred thousand dollars have been put into the plant from the earnings, but the money the monopolists purport to have taken out of their own pockets and invested in the enterprise is represented by the stock, and the present rate of profit on that is 26 per cent. Yet the rates in Indianapolis are not high, but on the contrary are lower than the rates of private companies usually are.

\* The people of San Francisco only get about 12 gallons of water daily for

In view of such facts it is no wonder that some or all financial items are "withheld" by a large proportion of the private plants all the way thru the Water Manual—no wonder that most of the companies in the above named cities refused to furnish financial data; nor that the Indianapolis company aimed to avoid the appearance of evil by omitting the item of operating expenses.

Speaking of the benefits of public ownership of water works in small towns, Professor Richard T. Ely says in "Problems of To-day:"

"I have looked into the experience of a whole group of towns in New York State, and they all tell one story. \* \* \* The experience of Randolph, in Cattaraugus county, New York, tells the story for all. A private company wanted to put in water works, and the lowest bid which they could be induced to make was \$28,000, and that was on condition that the town should subscribe for stock. The charge for water was to be \$10 for a household, with additional charges for extra faucets, closets, etc., in proportion. Randolph finally built its own works for a total cost of \$20,299.86, and with a charge of \$4 for each household, instead of \$10, is making a profit. Everybody is delighted with the experiment."

The price of *gas* does not appear to have any definite relation to the cost of production. Bronson Keeler found in 1889 that in cities manufacturing under closely similar conditions the selling price varied from 75 cents to \$16 per thousand feet.<sup>7</sup> He found a charge of \$1.25 in one city and \$6 in another a few miles away. Out of 820 plants the prices of 584, or 71 per cent. were multiples of 50 cents, and 84 per cent. were multiples of 25 cents.

In 1885 the New York Senate investigated the gas companies in the city of New York,<sup>8</sup> and discovered that down to

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each yearly payment of \$1. In Peabody and Springfield the people get 40 gallons daily for \$1 per year, and in every one of these eight public systems Philadelphia, 87; in Boston, 100; in Chicago, 200; in New York city, 290 gallons daily for \$1 per year; in Worcester, 32 gallons; in Cincinnati, 60; in there is a margin after allowing for interest and depreciation on the whole value of the plant.

<sup>7</sup> See Mr. Keeler's article in the November Forum, 1889.

<sup>8</sup> Senate Doc. No. 41, March 31, 1885. The reports immediately became so scarce that it was almost impossible even for a gas engineer to get a copy. It gives such startling revelations of stock watering and enormous profits, together with valuable information on the cost of gas, and contains so many things that the companies do not want the public to know that Prof. Bemis says: "According to the belief of many the companies bought and burned all the copies on the market and hushed up the report most speedily." (Municipal Gas, p. 70.)

the year of the investigation the price to ordinary consumers had been for the most part \$2.50 and \$2.25 per thousand, and that more than half of such price was clear profit. In 1883 the average cost of gas to all the companies was 60 cents in the holder and \$1 delivered at the burner, while the ordinary price was \$2.25, and the receipts of all the companies averaged \$2.16. In the year of the investigation the companies made a price of \$1.75, and the following year it was reduced by state law to \$1.25, which the companies were still charging in 1897, altho 75 cents a thousand would then have yielded a good profit on the real investment, as was proved by the evidence brought out in another legislative investigation.<sup>9</sup>

In 1892 gas was being put in the holders in Boston at a cost of 33 cents per M; distribution cost 20 cents, allowing 7 cents for depreciation, and 20 cents for interest on an allowance of \$4 investment per M (which is more than fair), we find that 80 cents per M would yield an ample profit, yet the companies were charging \$1.30 per M.<sup>10</sup>

In Chicago an excellent water gas is put into the holder at a cost of 20 cents per M—40 cents at the burner including taxes according to the statement of the two chief Chicago companies to the New York Stock Exchange in 1893 (and 37½ cents according to the report of the Mutual Company of Hyde Park, Chicago)—interest at 5 per cent. on the actual value of the plant (\$3.80 per thousand according to the

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<sup>9</sup> Testimony of Prof. E. W. Bemis, the leading authority on this subject in the United States. In his chapter on Gas, in "Municipal Monopolies," p. 588, he says: "Gas is a monopoly, and the individual consumer has no protection from extortion unless it is given by the city and the state." On page 591 he says that 75 cents per thousand is a sufficient rate in large cities east of the Rockies, and calls attention to the Cleveland gas case (1892), in which it was proved that the gas cost the companies 38 cents at the burner, including taxes; 7 cents is enough for depreciation, and 15 cents will cover interest, or 20 at the very outside; so that 65 cents would be an ample total charge. The company had been charging \$1. The city ordered a reduction to 60 cents. The company contested the order. But its officials were forced to admit that, aside from depreciation of about 7 cents, gas at the burner cost less than 40 cents per M. The price was finally fixed at 80 cents, with a special payment to the city of 5 cents per M (in addition to the ordinary taxes), making the real charge 75 cents per thousand (*Ibid.*, 591-2, 650).

According to Prof. James' "Relation of Municipality to Gas Supply," 1887, gas could be sold in New York for 65 cents a thousand.

<sup>10</sup> The average charge for gas in Boston was increased 8 cents per M in 1892 above the average for 1891 (thru the abolition of discounts) in the face of profits already enormous (30 to 60 per cent. on investment), and in the face of a reduction in the cost of producing gas from 40 cents, in 1891, to 23 cents, in 1892. (See Report of the Legislative Investigation of the Bay State Gas Trust, City Print, Boston, Mass., 1893, pp. 61-63, and Prof. Bemis' chapter on Gas in "Municipal Monopolies," p. 589.)

Mutual Company's Report) would amount to 19 cents, wherefore, allowing 7 cents for depreciation, it is clear that 65 cents would be a fair price, whereas the actual charge in Chicago is \$1. In Topeka the gas rate is \$1.70; in Kansas City, till recently, it was \$1.75, and in Trenton, N. J., \$1.70. According to the evidence accumulated by Professor Bemis, 75 cents to 85 cents ought to be more than sufficient in these places to yield a reasonable profit on the actual value of the plant. Professor Bemis says that in Great Britain (where public ownership has brought the companies to terms) the average price of gas is only 75 cents, or about half the current American price, and adds that there is no reason why the cost should be greater here than in England,<sup>11</sup> our higher wages being offset by our cheaper coal and oil, and the cost of apparatus being about the same in the two countries. He says that gas can be put in the holders for 20 to 30 cents per M; distribution will average 15 cents, including taxes, depreciation 7 cents, fair investment \$3 per M in large cities, \$4 in smaller cities; 50 cents average operating cost, 70 to 75 cents total average price on a reasonable basis of 6 per cent. profit on actual values. (Even this is probably high. See Appendix II, A. 2.)

*Electric light* companies levy large monopoly taxes on private consumers and the public. For commercial lights they charge the people fifty to 100 per cent. more than municipal plants,<sup>12</sup> and their charges frequently average two, three and sometimes four times the total cost of the service, operating expenses, interest, taxes, insurance, depreciation and all.<sup>13</sup>

For full data the reader is referred to the authorities named in the notes. A few cases only can be given here.

#### Prices for Commercial Lights.

Charge by Private Plant.	Charge by Public Plant.
Boston, 1 cent per meter hour.	Braintree, Mass., $\frac{1}{2}$ cent per meter hour.
Brookline, Mass., 1 cent per meter hour.	Swanton, Vt., $\frac{1}{3}$ cent per meter hour.
New York city, 1 cent per meter hour.	Westfield, N. Y., $\frac{1}{2}$ cent per meter hour.
Philadelphia, $\frac{3}{4}$ cent per meter hour.	Newark, Del., $\frac{3}{10}$ cent per meter hour.
Detroit, \$1 per lamp month.	Wyandotte (near Detroit), 16 $\frac{2}{3}$ cents per lamp month.
Kalamazoo, Mich., 20 cents per Kilowatt.	Coldwater (near Kalamazoo), 5 cents per Kilowatt.
Chicago, 1 cent per meter hour.	Peru, Ill., $\frac{1}{2}$ cent per meter hour.

<sup>11</sup> Municipal Monopolies, p. 627.

<sup>12</sup> Prof. Commons in "Municipal Monopolies," p. 156.

<sup>13</sup> The usual private company charge for commercial lights is 15 to 20



Many more instances could be given in which public plants make rates for commercial lighting that are  $\frac{1}{2}$  to  $\frac{1}{4}$  of the rates of private companies in neighboring places, where conditions, *all* things considered, are as favorable for low cost as in the public plants. The density of business in a large city makes up for the increased cost of labor and construction. It must not be forgotten that the difference between public and private commercial charges does not indicate the whole excess of the latter, since the commercial rates of public plants are usually sufficient to yield a good profit—the fair price or actual total cost (including operating expenses, taxes, insurance, depreciation and interest on real value of the plant) will run nearer  $\frac{1}{3}$  than  $\frac{1}{2}$  of the usual commercial charges of private corporations.<sup>14</sup>

In the early years of electric lighting, many cities paid two to four times the fair price for street lamps, and not a few municipalities still pay double the value of the electric lighting service. The following table gives a few facts for 1890:

Prices Paid to Private Companies Per Standard Arc Per Year.

San Francisco, \$440.	
New York, \$84 to \$182.	Washington, \$219
<i>St. Louis</i> , \$75.	
Philadelphia, \$177.	Brooklyn (sub-arc), \$182.
Boston, \$237.	
Cambridge, \$180.	Brookline, \$182.
Springfield, \$218.	
Lowell, \$182.	Fall River, \$180.
Worcester, \$200.	

St. Louis paid \$75 a year for each street arc of 2000 candle power burning all night and every night, while Philadelphia paid \$177; Washington, \$219; Boston, \$237, and San Francisco, \$440 for the same service. The St. Louis rate yielded a profit, and in other cities the prices were sufficient to pay the operating expenses, taxes, depreciation and reasonable interest on actual investment were \$75 to \$85, in New York, Philadelphia and Boston, a little more in Springfield, Cambridge, Brookline, Lowell and Worcester,

cents per Kilowatt-hour. Municipal plants generally charge 10 cents per Kilowatt-hour, and the actual cost is only 4 to 7 cents, or between 5 and 6 cents on the average of ordinary cases. ("The People's Lamps," *Arena*, August, 1895; "Municipal Monopolies," 1898, pp. 156-163, 213-17 and p. 278, where Prof. Bemis says that the cost of producing a thousand watts for street lights, including even interest and depreciation, is under 5 cents.")

<sup>14</sup> See last preceding note.

and about \$100 in San Francisco.<sup>15</sup> With fair rates the taxpayers of Philadelphia would have saved \$100,000 on street arcs in the census year; Boston, \$125,000; Brooklyn, \$177,000, etc., and the sum total saved to the people in all the cities named would have gone above half a million dollars.

Gradually people learned something of the facts, and lower rates were demanded, but the companies, for the most part, yielded slowly—they were protected by monopolistic franchises and agreements, by their influence with public officers and by the ease with which they could doctor their accounts and make statements of cost difficult for the people to controvert, since the experts in the large cities were practically all in the companies' employ, or under their influence. Some concessions were made, however, as the following figures for 1894 demonstrate:

Yearly Price Per All Night Arc—Reported 2000 C. P. Unless  
Otherwise Marked

San Francisco, \$200.

New York, \$146 to \$182.

Washington, \$182.

*St. Louis, \$75.*

Philadelphia, \$160.

Brooklyn (1200 c. p.), \$182.

Boston, \$139.

Cambridge (1200 c. p.), \$115.

Brookline, \$146.

*Springfield (1200 c. p.), \$75.*

Lowell, \$131.

Fall River, \$160.

Worcester, \$127.

The reduction is large in some cases: San Francisco from \$440 to \$200; Boston, \$237 to \$139; Worcester, \$200 to \$127; Springfield, \$218 to \$75, etc. And yet the number of lamps is so much greater than in 1890 that the total excess is larger than before. Boston taxpayers were overcharged \$100,000 in 1894 for electric street lights; New York paid \$330,000 too much; the excess in Philadelphia was \$425,000—more than \$1000 a day, and the sum of the overcharges in all the cities named was a good deal more than a mil-

<sup>15</sup> For the evidence of this see data in my articles on "The Peoples' Lamps," *Arena*, June, 1895, et seq.; the report of the Special Committee of the Boston Common Council, Oct. 17, 1895, confirming my figures; the estimates of Chief Walker, of the Electrical Bureau of Philadelphia; the data of cost in municipal plants given later in this chapter, and the testimony of William D. Marks, President of the Edison Electric Light Co., before the Pennsylvania Senatorial Investigating Committee, Dec. 5, 1895. The city of Philadelphia was paying \$160 per arc. President Marks said his company would take the whole 5300 lights at \$100 each, and that the cost would not be more than \$80 to \$85 an arc. He afterwards told his stockholders that at the \$100 rate the company could make \$20 on every arc. The Electric Trust, fearing that Pres. Marks would carry his point, bought up a controlling interest in Edison stock, blocked the President's plans, and forced his retirement.



lion dollars, or more than twice the total excess for the same cities in 1890, notwithstanding the reduction of rates.

In Philadelphia, New York and other cities, the companies said that they could not reduce to anything like the St. Louis rate because of the difference in the price of coal, yet that difference would not justify a difference of more than \$5 per arc year between St. Louis and Philadelphia or New York.<sup>10</sup>

Pittsburg, in the very heart of the coal region, was paying \$195 per arc year—\$55 more than Boston, \$35 more than Philadelphia and  $2\frac{1}{2}$  times as much as St. Louis, or \$120 excess per lamp year!

The *chaos of prices* makes it clear that the charge for electric light bears no definite relation to the cost of production. It appears to depend chiefly upon *political* conditions—the *ratio of intelligent public spirit to the power of monopoly* in the control of the city's affairs.

In Springfield alone did enlightened public spirit reduce the charge to a reasonable point—her rate of \$75 per sub-arc (1200 c. p.) being equal to \$88 per standard arc (2000 c. p.), which, for Springfield conditions is about equivalent to \$75 per full arc in St. Louis.

The charges to private consumers frequently continue very high after reduction of public rates. For example, the Worcester company continued to charge private consumers \$219 per arc after reducing the city rate to \$127; the Brookline company charged private parties \$182 per arc and the city \$146, and the Cambridge company (1898) charges private consumers \$160 per arc of 1,200 c. p. burning till midnight, tho the price to the city has been reduced to \$100 per arc of 1,200 c. p. burning all night and every night.

Some reduction has occurred since 1894. In 1897 and 1898 Boston paid \$128 per arc; Brooklyn, \$124; Philadelphia, \$109 and \$146; Pittsburg, \$96, and New York, \$146, \$164 and \$182 (for arcs that are not really over 1200 c. p.). The excess is still enormous—\$70 to \$80 being all that should be paid in any of these cities.

A few years ago an investigation revealed the fact that the people of Greater Boston were paying the electric light companies a monopoly tax exceeding \$800,000 a year, and the excess of charges in New York and Philadelphia was much larger still.

*Street railway* companies in our larger cities are prominent among monopolistic extortionists. The facts indicate that the usual 5 cent fare is nearly or quite double the reasonable charge. Buffalo street cars carry children for 3 cents, and the average of all fares collected is 3.6 cents, yet a good profit is realized. Recently a company asking for a franchise in

<sup>10</sup> See proof in "The Peoples' Lamps," Arena, June, 1895, where it is shown that, considering the density of business, the cost of coal, labor, real estate, etc., the difference between St. Louis and Boston would be about \$5 or \$6 per arc year, \$10 for Washington, \$12 for Springfield, and little or nothing for New York and Philadelphia.

Buffalo agreed to sell three tickets for 10 cents, making a uniform  $3\frac{1}{3}$  cent rate. A syndicate claiming to represent 35 million dollars has offered to buy up all the old lines in Chicago and sell tickets 10 for 30 cents, good for the hours of working people's travel, and for school children at all hours. And President Farson, of the Calumet Street Railway, of South Chicago, publicly stated in 1896, when a franchise with 5 cent fares and little compensation was about to be granted to the General Electric Railway from the heart of the city to Twenty-sixth street, that for such a franchise for twenty years, if he could have it without dishonorable relations with the city government, he would pay \$100,000 to the city and give a straight 3 cent fare. Several years earlier, before all the streets in Chicago had been let to the street railway companies, a prominent street railway financier offered to build extensive lines, give a straight 3 cent fare and pay a considerable bonus to the city.<sup>17</sup> Street railway magnates interested in the Detroit system, and thoroly familiar with the business in that city, offered to run all the cars in Detroit on a 3 cent single fare with 40 tickets for \$1 (a  $2\frac{1}{2}$  cent fare) and pay interest on the cost of acquiring the roads, if the city would take them.<sup>18</sup> When we remember that these Detroit capitalists contemplate business under the existing load of fictitious capitalization, or, perhaps, a still greater load, and that they expect to make a good profit, it is clear that the rate sufficient to cover operating expenses, taxes, depreciation and interest on the *actual* value of the plant is considerably below 3 cents.

The cost of operation on the electric roads in our cities runs from 10 to 12 cents per car mile.<sup>19</sup> The taxes, depreciation and interest amount to 8 or 10 cents a car mile, but when we remember that, far the larger part of this is interest on bonds and stock, and that the capitalization is usually two or three times, and sometimes more than three times, the real value, it appears that 4 to 6 cents would cover all proper fixed charges, making the total proper cost on electric roads in such cities as Chicago, New York, Buffalo, Philadelphia, etc., about 14

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<sup>17</sup> Municipal Monopolies, p. 530.

<sup>18</sup> The City was not in condition to effect a purchase of the roads.

<sup>19</sup> It is reported more than this in some cities, but, as we shall see

to 16 cents a car mile.<sup>20</sup> In Chicago and Philadelphia there are 5 passengers per car mile; in Buffalo, 6; in Boston, 7; in New York a few roads have about 5 passengers per car mile; the Metropolitan and the Cross-town, 7; the Thirty-fourth street horse, 9, and the Broadway cable, 12. A uniform 3 cent fare would yield from 15 to 36 cents per car mile on these roads, and, except on the 5-passenger roads, would yield a profit above normal interest, without any increase of traffic. The lowering of fares, however, would surely enlarge the traffic, thereby raising the number of passengers per car mile, and reducing the car mile cost at the same time, part of the new traffic going to increase the number of the car miles run on the road, which tends to diminish the cost of each car mile. Considering all the elements involved, it is probable that a uniform 2½ cent fare would be sufficient in most of our large cities, and there is not a little reason to think that a well-managed railway owned by the city free of debt could afford to make a 2 cent fare.<sup>21</sup>

later, the accounts are doctored. Here are some of the facts with the authorities:

*Street Railway Operating Cost.*

Electric Roads.	Operating Cost per Car Mile In Cents.	Authority.
New York (Met. U. Elec.)	10.	Engineer of the Road.
New York (Union O. Elec.)	12.	Co's Report to Railroad Commissioners.
Buffalo	11.	Co's Reports. (The figures include taxes.)
Niagara Falls & Sus. Bridge	10.	Co's Reports.
Philadelphia	11.	Statement of Gen. Man. to Glasgow Com.
Rochester	10.	Co's Reports.
Washington	9.27	Elec. Review, June 5, 1896, p. 733.
Chicago (City Ry.)	13.	Co's Reports. (The figures include taxes.)
Chicago (av. of urban r'ds.)	14.	Co's Reports. (The figures include taxes.)
St. Paul	12.	Mr. Higgins in St. Ry. Jour., 1894, p. 292.
Kansas City	11.	Mr. Higgins in Street Ry. Jour., 1894.
Savannah	11.	President of the Road.
New Haven	11.5	Co's Returns to Railroad Commissioners.
Milford & Hopedale	8.	Co's Returns to Railroad Commissioners.
Braintree & Weymouth	6.5	Co's Returns to Railroad Commissioners.
Toronto	8.33	City Engineer. (7.61 now.)
Montreal	10.50	Co's Statement to Glasgow Com.
Budapest	10.21	Glasgow Com.
Hanover	9.3	Elec. Review, May 22, 1896, p. 654.
Zurich	10.	Elec. Review, May 22, 1896, p. 654.
<b>Horse Roads.</b>		
New York (Met.)	17.	President Metropolitan Road.
New York (34th St.)	17.	Railroad Commissioners.
New York (2d Ave.)	19.	Railroad Commissioners.
Buffalo	17.	General Manager Buffalo Ry. Co.
Glasgow	17.5	Official Report of Road.
Montreal	18.	Statement of Officers to Glasgow Com.

**Cable.**

N. Y. 2d Ave.	11.	Superintendent of Road.
Metropolitan	17.5	Co's Statement.

**Elevated Roads.**

New York L roads	13.	Mr. Higgins in St. Ry. Jour., 1894, p. 362.
Brooklyn L roads	11.	Mr. Higgins in St. Ry. Jour., 1894, p. 362.

<sup>20</sup> The fixed charges amount to 8.55 cents per car mile on the Third Avenue cable, New York; 8 cents on the Crosstown horse; 9 cents on the Chicago trolleys; 8.5 in Boston (elec.); 10 cents in Buffalo (elec.); 8 cents in Toronto; 7 cents in Montreal (elec.); 6.5 cents in Budapest (underground elec.).

Fuller data on the cost of street railway service may be had by writing Prof. Parsons for Street Railway Circular No. 11, 5 cents per copy; 10 for 25 cents; 25 for 50 cents; 60 for \$1; 500 for \$5.

<sup>21</sup> See, "The Peoples' Highways," Arena, May, 1895, where the question is discussed with special reference to Boston and Philadelphia. Even in the latter city, if the roads were owned by the City free of debt, a 2 cent fare would answer. (See also Appendix II. C.)

Whatever experience may show to be the precise level of a reasonable railway rate in our cities, there is not the slightest doubt that the present rates are altogether too high. In 1894 a franchise was given the Detroit Electric Railway on its promise to give 3 cent rides in the daytime and 4 cent rides between 8 P. M. and 5.45 A. M. at night. It had 40 miles of road, mostly on the outskirts of the city, on routes that the old companies had considered too unprofitable to cover. The old companies fought the new one, and then practically absorbed it; and then, according to the confession of one of their chiefs, did their best to ruin the new line by running few cars upon it, and giving poor service, in order to make the low fare experiment fail. Yet the road has made a 5 per cent. profit on the investment each year from the start, with less than four passengers per car mile (owing to poor location and poor service), and average receipts of 3 1/3 cents per passenger. If a poor road like this, working under decree of devastation, can live and profit on 3 1/3 cents, how much less fare would answer on a well placed line, abundantly patronized and favored by the fullest efforts of the magnates for its success?

Here are some further facts in regard to the rates of fare in a number of progressive cities on both sides of the water:

Street Railway Fares in Cents.

City.	Population.	Working-men's Rate	Children's Rate	General Rate for Short Distance	Average Fare on Whole Traffic
Milan . . . . .	440,000	1.	...	2	1.8*
Vienna . . . . .	1,560,000	1 6	...	2	2 7*
Berlin . . . . .	1,800,000	..	...	2½	3
Budapest . . . . .	500,000	..	...	2	2.7
London . . . . .	4,000,000	..	...	1	2.5
Belfast . . . . .	256,000	..	...	2	2.2
Glasgow . . . . .	840,000	1	...	1	1.78
Toronto . . . . .	176,000	3	2½	4	4.2
Detroit . . . . .	280,000	..	...	3	3.3
Buffalo . . . . .	360,000	..	3	5	3.6

\*In Milan cars run night and morning at a 1-cent rate, regardless of distance. The general rate is 2 cents from the centre all the way out, without regard to distance. The average is estimated.

Vienna has the zone system with a 2 cent fare for each zone; 4 cents the maximum for a ride regardless of distance, with free transfers to any part of the city; 1 3/5 cents workingmen's fares regardless of distance on special cars; special rates to school children, also. The public authorities have a voice in fixing rates. The average in the last column is estimated.

In Berlin the average fare is 3 cents, and the operating cost per passenger is a trifle over a cent and a half.

In Glasgow the general rate is 1 cent per half mile, but for longer distances the fares are proportionately less, the average fare charged per mile over the entire system being 1.18 cents. A number of long runs were established at a 2-cent fare especially for workingmen, and night and morning cars are run at half rates so that working people may live in the country and come to their work

every day in the city at small expense. The Glasgow roads became public property in 1894. A record made a couple of years before showed the average fare under private ownership to be 3.84 cents per passenger. In 1896 the average fare had been reduced to 1.84 cents per passenger, and in 1898 it had fallen to 1.78—a drop of more than 50 per cent. in five or six years, while in Boston we pay the 5-cent rate, the same as we did ten years ago. The operating cost in Glasgow is 1.32 cents, and the total cost 1.55 cents, with 12 passengers per car mile and horse power, which is considerably more expensive than electric traction.

London has a 1-cent rate for short distances. Liverpool, Dublin, Belfast and Edinburgh have a 2-cent short ride rate. The average of all the fares collected in these five cities is below 3 cents.

Toronto has 3-cent tickets good from 5.30 to 8 A. M., and from 5 to 6.30 P. M., school children's tickets 2½ cents, good from 8 A. M. till 5 P. M., and general 4-cent tickets good any time in the day; single fare, 5 cents; night fares are double the day rates, and this brings the average fare up to a shade above 4 cents.

How long will the working people of our cities be content to pay monopolists double rates for street car service? And how long will intelligent and conscientious city officers and legislators be content to permit the monopolists to mulct the people in this way?

The Bell *Telephone* Monopoly charges \$24 to \$75 a year in small places for services worth from \$6 to \$20, and in large cities \$90 to \$240 for services worth from \$30 to \$100.<sup>22</sup> Comparing the long distance tariff in the United States under private monopoly with the government tariffs in England and France, which are like ours expressly framed on the scale of distance, we find the public tariff in England about 1/3 of our private tariff, and in France a good deal less than 1/3 of our tariff on long distances—a difference in charges far too great to be accounted for by any existing differences in general prices or cost of labor.<sup>23</sup>

For the *telegraph* also our people have had to pay and are paying double rates to the Western Union monopoly.<sup>24</sup> And even the railroads have been known to make excessive charges.<sup>25</sup>

<sup>22</sup> See the writer's chapter on The Telephone in "Municipal Monopolies," p. 330, et seq.

<sup>23</sup> *Ibid.*, pp. 338-9.

<sup>24</sup> The Washburn Committee of the National House, and Postmaster General Creswell, examined the rates and distances here and in Europe, and found our rates more than double the rates in Europe, mile per mile, and when *internal* rates in Europe were compared with *internal* rates here the committee found that the rate per mile in England was less than one-third the rate per mile in the United States, and in France less than one-fourth of our rate, mile per mile (House Report, 114, 41st Cong. 2d



*Monopolies by combination*, weight of capital, or privilege secured by agreement with the owners of a natural monopoly, or a legislative monopoly, such as a patent or a franchise, frequently manifest the same tendency to unfair charges.

In the Bramkamp wire nail case,<sup>26</sup> the attorney for the trust admitted that the combine had raised the price from 80 cents to \$2.50 a keg, wholesale, securing thereby a monopoly profit of several million dollars. That trust went to pieces, but recently another has been formed, and wire nails have advanced 100 per cent. beyond the ordinary competitive price.<sup>27</sup>

The coal combine was investigated by Congress in 1893, and the report declares (1) that in 1888 the extortions of the coal monopoly averaged more than \$1 a ton, or 39 million dollars for the year, and (2) that from 1873 to 1886, \$200,000,000 more than a fair market price was taken from the public by this combination. It also appeared that in 1892 the combine raised the price \$1.25 to \$1.35 a ton on the kinds used by housekeepers, tho the price of coal was already high, and the cost of mining diminishing every year. Vice President Holden, one of the leaders of the combine, testified before the New York Senate Investigating Committee, that "in advancing the price of coal the cost of production or transportation is not considered at all."

The Linseed Oil Trust in 1887 put the price up from 38 to 52 cents a gallon, or nearly five million dollars additional tax on the yearly output. In the same year the Copper Syndicate put up the price from 10 to 17 and 18 cents a pound, or thirty millions addition on the yearly output.

A Congressional investigation in 1893 brought out the fact that on the strength of a rumor that the internal revenue tax was to be increast by Congress, the Whisky Trust raised its prices 25 cents a gallon, which would amount to an additional profit of \$12,500,000 on its yearly output.

In 1888, just after the Sugar Trust was formed, the average price

Sess., pp. 57-62, 29-32; P. M. Gen'l's Rep. Nov. 15, 1872, p. 24. See also "The Telegraph Monopoly," *Arena*, Vol. 15, pp. 400-403).

In my investigation two years ago, I found the following contrast in telegraph rates:

	Ordinary Rate per Word in Cents	Ordinary Minimum Charge per Mes- sage in Cents	Average Receipt per Message in Cents
Great Britain .....	1	12	15½
France .....	1	10	15½
Germany .....	1¼	12	
Belgium .....	2½	10	8½
Switzerland .....	½	12	
Austria .....	1	11	
United States .....	2 to 7	25	31
See <i>Arena</i> , vol. 16, p. 637.			

<sup>25</sup> Railroad extortion will be treated in a future number of the *Equity Series* on "Transportation."

<sup>26</sup> U. S. Cir. Court, Indianapolis, Nov. 1896. Nails were retalling at \$3.75 to \$4 a keg, while farmers were selling corn at 12 cents and oats at 8 to 10 cents a bushel—40 bushels of oats for a keg of nails that probably cost, in labor and capital, about as much as four bushels of oats. (See *The Iron Age*, Oct. 22, Nov. 19, and Dec. 3, 1896, pp. 795, 988, 1106, and 1108, and *The Legal Aspects of Monopoly* in "Municipal Monopolies," p. 469.)

<sup>27</sup> *Review of Reviews*, Vol. XIX, p. 680.

of raw sugar was the same as in 1885, but the average price of refined sugar advanced so that the difference<sup>28</sup> between the price of raw sugar and the price of refined sugar was 76 per cent. more than in 1885 and about 70 per cent. more than in 1887, the year the trust was formed. Since then refined sugar has fallen in the market, but raw sugar has fallen more, so that the difference has never been as small as in 1885, the enlargement being 70 per cent. in 1889, 16 per cent. in 1891, 50 per cent. for 1892 and 1893, 23 per cent. for 1894-5, 27 per cent. for 1896 and 32 per cent. for 1897. For a dozen years we have paid each year a good deal more per pound for refining sugar than we did in 1885 (altho the cost of refining has been constantly diminishing), and our sugar bill has averaged at least 10 and perhaps 20 millions a year more because of the trust.<sup>29</sup>

The Standard Oil is another monopoly that has kept prices from falling as much as the diminished cost of transportation and refining would have caused them to fall in an open market<sup>30</sup> and at times it has lifted prices absolutely as well as relatively in spite of the vast improvements in processes of manufacture, great cheapening of transportation by the pipe line service and the falling price of crude oil. From 1894 to 1897, for example, the price of refined oil went up 14 per cent., while the price of crude oil declined 6 per cent.<sup>30</sup>

If any one has conscientious scruples or business interests which, in spite of the facts above described, persist in interfering with his understanding that *private monopoly tends to extortion*, he will be introduced to tenfold more facts that tell the same story, if he will investigate the matter thoroly for himself; or if he will wait till I get time to write up the rest of the materials at hand.

#### THE PROFITS OF PRIVATE MONOPLY.

2. *Enormous profits* result from excessive charges, and the monopolistic roll in wealth while the working masses and competitive classes are cheated out of their fair share of the world's wealth.

In private *water* supply we have seen monopolists taking 20 to 40 per cent. profit on their money (see above). In Chi-

<sup>28</sup> This difference is what goes to the trust, which is simply a refiner.

<sup>29</sup> Review of Reviews, Vol. XIX, p. 685.

<sup>30</sup> *Ibid.*, p. 684. A monopoly may even reduce prices below what they would be in an open market, and yet its charges may be unreasonable, because the margin between the charge and the cost of production is too great, the public not being accorded a fair share of the economies effected in the business. Finally a monopolistic concern may temporarily reduce prices to a reasonable level or even below it in order to crush out existing or threatened competition, or for some other purpose, but the fact remains that, in proportion to the strength of the monopoly, it is in the discretion of the monopolist to raise his prices to an exorbitant degree, and he is almost sure to fix them so as to draw to himself the largest possible monopoly profit, or unearned increment, disturbing to the utmost the fair distribution of wealth.



cago we have found *gas* profits of 15 per cent.<sup>1</sup> According to an official statement in the *Progressive Age* July 1, 1891, the Laclede Company, of St. Louis, was making a net profit of 66 cents per thousand, or over 18 per cent on the cost of duplication. In Topeka and in Trenton the gas profit appears to be 25 or 30 per cent. on the real value of the plant.

In New York the gas profits of the past have been enormous, and, even with the present comparatively low rates, the profits run about 25 per cent. on actual investment, and Consolidated Gas stock, in spite of generous infusions of water, is selling to-day at 213. The oldest of the New York companies has paid 40 per cent yearly in cash on the \$750,000 actually paid in, and over 1000 per cent. in stock dividends besides.<sup>2</sup>

The New York Senate investigation of 1885 (Sen. Doc. 41) brought out the fact that "The gross sum paid for the ten past years by the gas consumers in the city of New York to the companies, irrespective of any other source of income to them, was \$74,656,884. Of this amount nearly half was clear profit, viz, \$30,074,715. \* \* \* During the last ten years, in addition to costs of gas and 10 per cent. on the share or nominal capital of the companies named, there has been paid by the consumers of New York city about \$9,000,000. \* \* \* Taking all the companies, \$4,941,000 have been paid in dividends in excess of 10 per cent. on the nominal capital in ten years, and the works have been increased out of earnings to the extent of \$6,413,000"—more than 11 millions above 10 per cent. on the nominal capital, water and all. "If the 10 per cent. annual dividends are calculated on the capital *actually paid in* by the stockholders, it would appear that *the gas consumers in ten years have not only contributed such 10 per cent. dividend, but a further amount sufficient, in fact, to nearly duplicate the present system of gas supply.*" The dividends on stock during the ten years were in nearly all cases from 8 to 35 per cent., in spite of the water or inflation, which, at the time of the investigation, amounted to about

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<sup>1</sup> Selling price \$1 per M, operating cost, taxes and depreciation 45 cents, profit 55 cents; claimed investment, \$3.80 per m. (See section 1).  
Municipal Monopolies, p. 593.

2/3 of the capitalization. The average net income for the Manhattan Company during said period was 82 cents per thousand feet, besides \$1,626,247 for construction and repairs. In the Metropolitan the profit averaged 85 cents; in the Municipal, \$1.03, and the Mutual, with an average price of \$2.29, obtained a net average profit of \$1.19, or a *net average income* of \$1.08 per thousand feet, besides accumulating a surplus of \$2,809,327 and expending \$616,341 for repairs. A steady profit of nearly 40 per cent. a year on the real value of the investment is pretty good, but Boston can do better than that.

The legislative investigation of the Bay State Gas Trust, in 1893, revealed the fact that the Bay State Gas Company had, in the preceding year, paid out \$477,000 in dividends and interest, and that the total cost of the plant was \$750,000, showing *a profit of nearly 60 per cent. on the actual investment*.<sup>3</sup>

In the Cleveland gas case the evidence showed that the company was paying cash dividends of \$1440 a year on each original investment of \$1000, besides stock dividends amounting up to 1892 to a total of \$24,000 for each investment of \$1000. The original investor of \$1000, without further payment, was receiving an innocent looking 6 per cent. on \$24,000 of securities—*144 per cent. cash profit per year* on the real investment and a gift of new securities that would sell in the market for more than \$24,000.<sup>4</sup>

When John McIlhenny, of Philadelphia, was asked in court his opinion of this, he said: "That is not an unusual thing in this growing country at all. It is about the history of all the prosperous gas works."

<sup>3</sup> Report of the Investigation, revised by Mayor Matthews of Boston, who led the movement, Rockwell & Churchill, City Printers, Boston, 1893. The company admitted receipts of \$777,760 in the preceding year, and placed the operating expenses including taxes at \$318,837. The report does not state whether or no the company allowed for depreciation; if so the net profit would rise above 60 per cent., if not it would fall somewhat below 60 per cent. on the investment. Mayor Matthews estimated the total illegitimate or monopoly profits of the Gas Trust (several Boston companies combined) at \$2,000,000 in 3 years and 10 months, after allowing 8 per cent. on the capital invested which he deemed a legitimate profit. The Gas Combine in about four years had succeeded in lifting the profits of the companies from \$450,000 to \$874,000 a year, the former rate being already too large. (See Haverhill Case 70 per cent. gas profit, Appendix 11 A.)

<sup>4</sup> Municipal Monopolies, p. 592.

In 1890 *electric light* was selling in Boston at a profit of 50 per cent. on actual values. And in spite of the great reduction of rates produced by the public ownership movement and the growth of intelligent comprehension of the facts, electric light is still sold in Philadelphia, New York and numerous other cities at rates sufficient to yield over 30 per cent. on the real investment.<sup>1</sup>

The Philadelphia *Traction* Company requires less than half its receipts for taxes and operating expenses, so that it has over 5½ millions a year for profit and depreciation. If we estimate depreciation at 5 per cent on the probable cost of duplication, there will still be 4 millions, or 16 per cent. profit on the real value of the plant.<sup>2</sup> In Detroit the Citizens' Company (the

<sup>1</sup> In general, all above \$65 to \$70 per standard arc year is profit. Only in a few cases does the cost, aside from interest or profit, rise to \$80. The operating expenses per standard arc (2000 c. p. all night and every night) usually run from \$50 to \$60 with coal from \$2.25 to \$3 a ton. For taxes allow \$2 per arc, insurance about the same. For depreciation allow 3 to 5 per cent. on the actual value of the plant, an amount which varies from \$150 to \$300—even a plant as good as the Chicago plant with all its underground construction can be duplicated now for \$300 per arc, and a first class plant with overhead construction can be built for \$250 per standard arc or its equivalent. (See *Arena*, Vol 14, pp. 86 and 439 and authorities there cited; also *Municipal Monopolies*, p. 209, et seq.). With these data the reader can test the electric profits of his own place, and if the result indicates a high percentage, he should get an expert to make an accurate estimate, or make it himself with the aid of the facts and principles set forth in the authorities just quoted, and if the profit still figures high he should rouse his fellow citizens to demand a reduction of rates, or better still, public ownership of the electric plant.

<sup>2</sup> This 16 per cent. does not by any means represent the profits on the money actually paid in on the stock. Most of the cost has been paid out of earnings and the 12 millions derived from the funded debt. The real profits of the monopolists amount to 20, 30, 40 and even 67 per cent. on the money paid in on stock, as appears from the following statement taken from p. 42 of the *Railway System of Philadelphia*, by Professor F. W. Speirs of the Drexel Institute.

"The very large profit on actual investment in Philadelphia railways is registered in the price which these operating companies pay for the privilege of exercising the franchises of the original companies. The following table shows the net return which the present stockholders of the original railway companies are receiving on paid-in capital stock under guarantee of the operating traction companies.

The lease terms of the principal lines of the Philadelphia Traction system provide for net returns on paid-in capital stock as follows:

Name of Company.	Annual Dividend on paid-in Capital Stock.
Continental .....	20.7%
Philadelphia City .....	31.5
Philadelphia & Gray's Ferry.....	16.0
Ridge Avenue .....	42.8
Thirteenth & Fifteenth Streets.....	65.6
Union .....	31.6
West Philadelphia .....	20.0

The dividend charges of the Electric Traction Company are as follows:

Frankford & Southwark.....	27%
Citizens .....	67
Second & Third Streets.....	25

(Note continued on next page.)

old company) realizes 14 per cent. profit on its stock, water and all, tho selling 6 tickets for 25 cents, with a 3 cent fare (8 for a quarter) night and morning. In Montreal 12 per cent. profits are made on a 4 cent fare and school children 2½ cents. The Metropolitan Company, of Washington, D. C., makes 15 per cent. profit on the cost of its system. The Third Avenue Cable earns \$38,422 a mile net, or 22 per cent. on the actual cost of the road and its equipment. The profit on the Broadway line is probably much greater, but the separate figures are not at hand. The whole Metropolitan system, cable, electric and horse, netted \$8000 a mile in 1893 and \$25,000 in 1897. Mr. Edward E. Higgins, one of the foremost writers on street railway matters, told investors in 1895 that in cities of one to five hundred thousand inhabitants net earnings of 15 to 25 per cent. on the actual cost of duplicating the tangible assets might be expected from the street railways.<sup>1</sup>

Another high authority<sup>2</sup> says that in 1897 the American street railways were earning \$150,000,000 gross, and 40 or 50 millions net return on the investment. And the increase of profits is very rapid, in spite of the bicycle. We have already noted the tripling of net earnings on the Metropolitan system from 1893 to 1897. Further proof will be found in the following circular issued by the Citizens' Committee of Boston and presenting some facts from the Street Railway Supplement of "The Commercial and Financial Chronicle," February 27, 1897. It shows that during the period from 1890 to 1897, when business in general was very dull, failing to keep pace with the growth of population, and suffering in many places an absolute decline, yet street railway earnings enjoyed a marvelous increase.

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The Peoples Traction Company has pledged the following dividends on paid-in capital stock:

Germantown .....	24%
Green & Coates Streets.....	40

The Thirteenth & Fifteenth Street's dividend is to be increased to 71.6 per cent. after 1900; the Frankford & Southwark to 36 per cent. by 1903; and the Citizens to 72 per cent. after 1899.

<sup>1</sup> "Street Railway Investments," p. 77.

<sup>2</sup> The Street Railway Journal, Oct., 1897.

## Growth of Street Railway Earnings.

	Per cent. of Increase in Street Railway Earnings since 1890	Increase in clearings since 1890	Decrease in clearings since 1890
New York .....	28		25
Rochester .....	52	0	
Detroit .....	93	0	
Chicago .....	63	8	
Philadelphia .....	44		15
Cleveland .....	68	13	
St. Louis .....	68	3	
St. Paul .....	66	18	
Baltimore .....	51		5
Boston .....	55		13

In some places where there has been a considerable extension of lines, the traffic and earnings have increased at still higher rates. For example, the earnings of the Worcester roads have grown 170 per cent. and the trackage over 200 per cent. since 1890, while clearings have risen only 16 per cent.; in Springfield, the trackage and earnings have grown 180 per cent., while clearings were stationary; in Buffalo, the trackage and earnings have increased 140 per cent., while clearings have fallen 5 per cent.; other similar cases of enormous increase of earnings are chronicled. Pittsburg, 133 per cent., while clearings fell off 5 per cent.; New Haven, 185 per cent., while clearings rose but 12 per cent.; Hartford, 270 per cent., while clearings advanced 14 per cent., etc.

In Boston and its suburbs, street railway traffic has nearly doubled in the last ten years. Since 1888, the first year of the West End consolidation, the number of miles of track operated by the company has increased 10 per cent., while the passenger traffic has risen 80 per cent. If such results have been achieved in the last eight years of severe depression, what may we expect from the next thirty years of probable prosperity and ever accelerating progress?

*Telephone* profits amount to 12, 20 and even 30 per cent. on real investment in towns and smaller cities, while some of the charges in our largest cities are sufficient to yield more than 100 per cent. clear profit. The Bell Company proper reports \$21,000,000, or 2/3 of its receipts since the beginning as clear profit above all expenses, including interest, and for 1897 its profit was \$4,169,000, or 4/5 of the gross receipts. In a New York investigation the sworn testimony of the officers of the Metropolitan Telephone Company showed that its net profits were 474 per cent. in six years on the cash capital invested—116 per cent. in 1885, 147 per cent. in 1886, 145 per cent. in 1887, etc. While the rate was \$60, then raised to \$150 and again to \$180, the company netted \$2,843,-454 in six years on an original cash investment of \$600,000.



The owners of the Western Union *Telegraph* pay all expenses and interest on bonds and then have left a clear profit of 120 per cent. on the property value that remains after subtracting the amount of the bonds from the cost of duplicating the plant.<sup>1</sup>

One hundred and twenty per cent. is a pretty good profit even for a monopolist, but there is more. The Hon. John Wanamaker says that "An investment of \$1000 in 1858 in Western Union stock would have received up to the present time stock dividends of more than \$50,000 and cash dividends equal to \$100,000, or 300 per cent. cash dividends a year."<sup>2</sup> Think of it, getting your money back a hundred times in cash and fifty times more in good securities, selling now at 98 in spite of all the water in them—300 per cent. a year in cash and 150 per cent. in stock!

The net profits of the Tin Plate Trust are estimated at 40 per cent. on actual values, and those of the Wire Trust at 60 per cent. a year.<sup>3</sup>

The Sugar Trust has realized profits at the rate of 214 per cent. in 1888, 400 per cent. in 1889, 200 per cent. in 1893, etc.,<sup>4</sup> and some of its members at least are now receiving more than 360 per cent. on actual values.<sup>5</sup>

The Oil Monopoly has been known to make 530 per cent. on its whole capital year after year, and *some* of its investments and enterprises have netted it as high as 800 per cent.

<sup>1</sup> Arena, Vol. 15, p. 600.

<sup>2</sup> P. M. Gen'l Wanamaker's "Arguments for a Postal Telegraph," 1890.

<sup>3</sup> Review of Reviews, Vol. XIX, pp. 687, 688.

<sup>4</sup> See data for these conclusions in Henry D. Lloyd's "Wealth against the Commonwealth," pp. 32, 33, citing investigations by committees of Congress and the New York Senate. The percentage in 1893 is really infinity because the \$10,000,000 bonds more than covered the real values, which were placed at \$7,740,000, excluding refineries that had been closed or dismantled by the trust. The whole \$75,000,000 of stock was therefore water as well as part of the bonds. So that the 15 millions of dividends and surplus after paying interest on the bonds, was a profit on pure space, rather than 200 per cent. on the \$7,740,000 real value which belonged in truth to the bondholders and not to the stockholders.

<sup>5</sup> The Trust is now paying 12 per cent. on its common stock. The Brooklyn refineries, capitalized at \$500,000, were brought into the Trust at \$15,000,000 in stock. So that in respect to the Brooklyn Company at least the watered capital appears to be quite 30 times the real, and 12 per cent. on the stock means 360 per cent dividends on real values, to say nothing of Brooklyn's share in the rapidly accumulating surplus of the Trust, which amounts to over 30 millions (see data in Review of Reviews, Vol. XIX, pp. 684-5).

a year, and in one case, thru railroad rebates, over 3000 per cent. profit per year was obtained.<sup>1</sup>

Do you realize the meaning of all this? Do you grasp the full significance of these enormous profits and the excessive charges on which they are based? Do you perceive that *monopoly in private hands means taxation without representation and for private purposes?* Do you know that our people now are subjected by the monopolies to a taxation by the side of which the taxes levied by King George and his Parliament are as the dust in the balance?

Taxation without representation is tyranny, and every monopolistic franchise, privilege or possession, by nature, law or agreement is a transgression of our liberties. } A monopoly in private hands gives its owner the power to collect from consumers more than the value of what they receive. One may charge the fair value of the service he renders without a monopoly. The advantage of monopoly—the reason men struggle so hard to obtain it—is the power it gives to charge more than that value. In other words, a private monopoly confers the inestimable privilege of demanding something for nothing, and involves the power of taxing the people for private purposes.

If these magic methods of accumulating riches were equally diffused, it would not be so bad; but the working people, as a rule, are not represented in the gas and electric light trusts, the street railway companies, the sugar trust or the oil monopoly. They have to sell their labor and produce in a competitive market, and buy very largely in a monopolized market.

There are two principles of the common law that are of the utmost moment to students of monopoly. The first is that a monopoly is void as against public policy.<sup>2</sup> The second is

<sup>1</sup> Wealth against the Commonwealth, pp. 67, 99 and 100.

<sup>2</sup> Chicago Gas Light Co. vs. People's Gas Light Co., 121 Ill. 530; Richardson vs. Buhl, 77 Mich. 632; see also 68 Pa. St. 173, 186; 50 N. J. Eq., 52; 130 U. S. 396. [In the Michigan case Chief Justice Sherwood said: "*Monopoly in trade or in any kind of business in this country is odious to our form of government. \* \* \* Its tendency is destructive of free institutions, and repugnant to the instincts of a free people.*"]

In the Case of the Monopolies (11 Coke, 84, b) it was held that even the sovereign power of Queen Elizabeth was incompetent to create monopolies



that a legislative body in a free country has no power to tax for private purposes, and cannot confer such power on any man or set of men.<sup>1</sup>

From these two settled principles of our law it clearly follows that no franchise or monopolistic privilege can lawfully be granted in America, and that all such grants, actually made are void *ab initio*. The established rules of the law, logically carried out, would render utterly void every monopolistic franchise and ownership in existence. The public and the public only may lawfully own a monopoly, because under such ownership, and only under such ownership, does the power of taxation involved in monopoly become a power of taxation for *public* purposes and not for private purposes.

All this is clear, and yet our judges would probably hesitate to declare a legislative franchise void to-day even if the argument against its validity were fully and strongly urged (which it never has been so far as I know). And they would hesitate because of the long line of such enactments in the past, and the disturbance that would be caused by an adverse decision at this late day. And yet it is perfectly manifest that the fundamental principles of republican government are broken every time a franchise is granted, and every moment a monopoly is maintained by aid of the law instead

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because they were detrimental to the interests of the people. And if the "Divinely Commissioned Ruler" of the people may not inflict this injury upon their interests, by what authority can it be done by the servants of the people, elected to conserve their interests, not to defeat them? An agent must be loyal to his principal's interests, and the moment he ceases to be so his authority vanishes. This is bed rock in the law of the civilized world.

<sup>1</sup> A legislative body can tax, or authorize taxation, for *public* purposes only (U. S. Supreme Court, 20 Wall. at 664, U. S., 487, 58 Me. 590, 2 Dill. 353. Cooley on Taxation, p. 116 and cases cited) and taxation for the benefit of an enterprise in *private control* is not for a public but for a private purpose, and is beyond the sphere of legislative power. (Judge Dillon in 27 Ia. 51, and 58 Me. 590. See also 20 Mich. 487.)

It makes no difference whether the constitution says anything about it or not. The provisions of the constitution are not the only limitations on legislative power. There are others that inhere in the very substance of republican institutions, underlying the constitutions as essential to the very purposes for which the constitutions exist, and therefore impliedly recognized by the creation and maintenance of said constitutions. (The U. S. Supreme Court in 20 Wall. See also Judge Dillon in 27 Ia. 51; 25 Ia. 540; and 39 Pa. St. 73.) These cases and many others declare that legislative power is limited by the great principles of justice for the enforcement of which government is instituted, that acts in violation of these principles will be held void by the courts, although no provision of the constitution can be found to condemn them, and that the taking of A's property to give it to B, or the identical act of giving B a power whereby he may help himself to A's property is beyond the limits of legislative authority. And what the legislature cannot lawfully do directly because of the injustice of the act, it cannot lawfully accomplish indirectly under the guise of a franchise.

of being swept into the list of illegalities, as it should be. The people are bitter in their denunciation of trusts, and Congress has passed severe laws against them for the sole reason that they are monopolies. Whereby we have the serio-comical spectacle of a government creating monopolies with one hand and enedavoring to choke them with the other—declaring absolutely void all monopolies formed by agreement among men because monopoly is in its nature contrary to public policy, and sustaining exactly similar, in some cases identical, monopolies established by the agents of the people without an atom of authority to do it, but thru a flagrant breach of their trust and in violation of the fundamental principles of free institutions.]

#### WATERED STOCK AND INFLATED CAPITAL.

3. *Overcapitalization* is the twin sister of extortion. Both arise naturally from the desire to squeeze as much wealth as possible out of the people and to keep the people quiet during the process. Get a franchise, issue a lot of stock, keep enuf of it to retain control of the enterprise, sell the rest, build your plant, bond it for all it is worth, and recoup all you put into the concern, then double up the stock and keep adding to it as the business grows, so that an actual profit of 20, 50 or 100 per cent. on the real investment will be only 5 or 6 or 7 per cent. on the bonds and stocks, and so *appear* on the face of the accounts to be only a reasonable profit, not likely to arouse opposition or set in motion the legislative or administrative machinery for the reduction of the rates—such is the normal monopolistic plan. And if some public-spirited citizen *should* stir things up and obtain a law or ordinance or order reducing rates, the monopolist can take the matter into the courts and protect his extortions in large degree by showing that much of the bonds and stock have come into the hands of “innocent purchasers for value,” wherefore he must be allowed to make interest and dividends on the whole capitalization, else the said innocent holders will be cheated out of a fair return and their property practically confiscated, which would be a very wicked thing if it were caused by

legislative reduction of rates acting on a condition of grievous overcapitalization, but is perfectly justifiable if caused by the stock manipulation or the profit-absorbing tendencies of the monopolist himself. Water in the capital is useful also in protecting the monopolist from public ownership. Dilute the figures so that the profits will seem quite small, and the people will let things go on till the business pays 5 or 6 per cent. or more, on the whole capitalization, and the stock rises to par in the market, water and all, and then if the people get to reading "foolish" books on public questions, or become disgusted with corporate monopolies by direct experience, and begin to demand public ownership of gas, electric light works, or street railways, or whatever line you may be in, you can get the legislature to pass a law (if it has not already done so) requiring that cities desiring public ownership of public utilities shall buy out existing plants, and the courts will make the cities pay full market value, the effect of which will be to keep your city from going into public ownership, or to give you several times the value of your plant if it does.

Some facts regarding overcapitalization may indicate the extent of the evil. For *gas* plants in large places \$3 per thousand feet of output is a fair capitalization, \$4 being about the limit.<sup>1</sup> Yet in many states the average gas capitalization rises to \$8 or \$10 per thousand. In 1890 Brown's Gas Direc-

<sup>1</sup> In Massachusetts, in 1897, there were six gas companies outside of Boston having an output of more than 60 million feet each, and free of the complications in accounts which result from the union of electric light and gas works. These companies were in Cambridge, Fall River, Haverhill, Lowell, Springfield and Worcester, and their average capitalization was \$2.87 per thousand feet of output. The Mutual Co., of Hyde Park, Chicago, reports \$2.69 stock per M. It has no bonds, and all it claims in surplus and tangible assets amounts to \$3.80 per M. The capitalization in Richmond is \$3; in Philadelphia and in Wheeling about the same. For Washington it was \$3.25 in 1890, and \$2.59 in Milwaukee.

Professor Bemis, our highest authority on gas, says that in Great Britain the total capital that has been raised or borrowed by the public gas companies averages \$2.99 per M. of annual output, and in the case of the private companies, \$3.27. The average "capital employed"—apparently the structural value in eight leading public plants and ten private companies was \$2.60 and \$2.46 per M. The Professor says there is no reason why gas construction should cost more here than in England, and in cities of 200,000, or more east of the Rockies, he says, the cost of duplication would rarely exceed \$4 per M. The data collected by Prof. Bemis, Prof. James and Mr. E. C. Brown, editor of *The Progressive Age*, indicate that in places of 5,000 to 25,000, where the population is scattered, the real investment is usually from \$4 to \$6 per M; in places of 35,000 or more it is \$3 to \$5, and in places above 200,000 it is \$3 to \$4. (See Bemis on Municipal Ownership of Gas, Amer. Econom. Assoc., pp. 42-5, and his chap. on Gas in Municipal Monopolies, pp. 624-5, 627, 590, 591, 598, 698; also Brown's gas directory in *Progressive Age* for 1890, and Prof. E. J. James' "Relation of the Modern Municipality to the Gas Supply," Pub's of Econ. Assoc., Vol. I, 1886-7.)

tory placed the capitalization at \$9 in Rochester and St. Paul, \$13 in Jersey City, \$11 in San Francisco, \$14 in Baltimore, \$19 in St. Louis and \$20 in New Orleans. The present capitalization in New York city is \$10, and in Boston it is \$42 per thousand feet of annual output.<sup>2</sup>

The Mutual Company of Chicago has been bought by the People's Company, which issued \$5,000,000 of bonds in place of the Mutual stock, representing \$2,119,667 of tangible assets. This made the capitalization \$9 per thousand feet, a figure which holds true of all the Chicago companies. Their capital is two-thirds water, and their 60 millions of securities, representing 20 millions of structural value and 40 millions of free gift by the people, are above par. In one Chicago gas case it was affirmed on oath that only \$100,000 had ever been paid in in cash to the company, whose stock, in 1887, was about 5 millions, and which, in that year, issued a dividend in bonds of 7½ millions, while the stockholders almost doubled their stock in a consolidation of companies then effected.<sup>3</sup> This shows more than 2 of water to 1 of solid since 1887, and an original investor of \$1,000 has now \$175,000 of securities, or 17,500 per cent. on his investment, without counting the cash dividends he has received.

In Boston in the eighties the Bay State Gas Company was capitalized at \$5,000,000 on an actual capital expenditure of \$750,000.<sup>4</sup> And the "Boston Gas Syndicate," or "Gas Trust," formed in 1889 by the Bay State and four other companies, added \$13,365,000 illegitimate capitalization to the \$4,640,000 lawful capitalization of the component companies, making a total capitalization of \$17,000,000, or nearly 4 times the honest figure.<sup>4</sup>

The growth of the water evil in Boston has been astonishing. In 1888 the gas capitalization in Boston was about

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<sup>2</sup> See below for Boston figures. The New York Senate investigation of 1885 found the gas capitalization in New York city at that time \$8.75 per M, and stated that the *fair* capitalization would be about \$3 per M of annual output.

<sup>3</sup> Municipal Monopolies, 593.

<sup>4</sup> The Matthews Legislative investigation of the Boston Gas Trust, Unmutilated report, City Print., 1893, pp. 6, 47, 48, 95. There were some patents stated at \$250,000, in addition to the \$750,000 spent in constructing works and laying pipes, but there was no evidence to show that the Bay State ever paid a dollar for the patents, or that they had any value. There was no entry on the Bay State's books of paying anything for patents.

\$4 per M, which was not unreasonable, but now (1898) the Boston companies, as a whole, present one of the worst cases of dropsy to be found in the history of diluted capital. The amount of water in their composition is astounding, their total capitalization being in round numbers \$99,000,000, or \$42 per thousand feet of annual output, which is more than ten times the fair capitalization per thousand in this city.<sup>5</sup>

The water in the stock values of Philadelphia street railways averaged 5 to 1 in 1897, and is now about 7 to 1. If we consider the relation between stock values and amounts paid in we shall find it 19 to 1 for the Thirteenth and Fifteenth street lines, 16 to 1 for the Citizens', 10 to 1 for the Ridge avenue, etc.<sup>6</sup>

When the Lynn and Boston, Lowell, Lawrence and Haverhill street railways were consolidated, the capitalization was increased from \$27,000 to \$60,000 a mile, or about 125 per cent., nearly the whole increase of which was water. The West End consolidation doubled the capitalization of the Boston companies, and as their capitalization was already in excess of the cost of duplication, it is a mild statement to say

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<sup>5</sup> The Boston capitalization is over 4 times the New York and nearly 5 times the Chicago capitalization, tho both of these are principally water. In 1888 the Boston companies had an output of 1,161,000,000 feet and a capital of \$4,500,000, or a little less than \$4 per M of output. In 1898 they have twice the output and 23 times the capitalization of ten years before, or 11½ times as much capital per M instead of less, as should be the case with the growth of the output. (See figures of Prof. Gray and Prof. Bemis, *Municipal Monopolies*, p. 599.) According to the report of the Gas Commission for 1890, the capitalization of the Boston Gas Co. was under \$2 per thousand of output, while the Bay State Gas Co., then in its second complete year of operation, was capitalized at \$36 per thousand.

<sup>6</sup> According to figures for January, 1897, given by Professor F. W. Spiers, of Drexel Institute, pp. 43, 47, of the "Street Railway System of Philadelphia," the market value of the stock of all the street railway companies of Philadelphia exceeds \$120,000,000; the funded debt is about \$12,000,000; the amount of paid capital stock is about \$50,000,000, and the total cost of the construction and equipment of all the roads is about \$36,000,000, or \$76,400 per mile for the 447 miles of track—\$56,300 per mile if the cost of paving from curb to curb is subtracted. And as the returns to the Secretary of State refer presumably to original cost, the present cost of duplication is probably less than \$50,000 per mile. The par capitalization, or amount of debt and stock at par values, was \$108,301,800, or \$242,280 per mile of track, nearly 5 times the actual value. The market capitalization of \$132,000,000, or \$290,000 per mile, was nearly 6 times the real value of the railway plant, and about 4 times the total expenditure, paving and all. If the debt is subtracted from the total duplication value, paving and all, we find water in the stock values to have been 5 to 1.

Since Professor Spiers wrote, the Philadelphia stocks have advanced so as to increase the market capitalization \$42,800,000, for which \$1,620,000 must be subtracted for the Hestonville shares owned by the Union Traction, leaving \$40,180,000 increase, referable to the 447 miles under consid-



that over half the capitalization of the West End in 1889 was baseless. The Massachusetts Board of Railway Commissioners says that part of the increase of \$12,477 capitalization per mile for all the Massachusetts companies in 1892-3 was "stock-watering pure and simple," and that many companies did not write off proper depreciation.<sup>7</sup>

The three leading Chicago street railway systems have a par capitalization of \$130,000 a mile of track, with a market valuation of about \$200,000 a mile, while they can be dupli-

eration, wherefore the total market capitalization is now \$380,000 per mile, and the water in the stock values 7 to 1. The relations between stock values and the amount paid in are shown in the last column below.

*Street Railway Stock Values and Amounts Paid In.*

NAME OF COMPANY.	Par Value.	Amount paid in per Share.	Market Price, Jan. 1897.	Present Market Price 99	Relation between Stock Values and Amounts paid in.
Continental .....	\$50	\$29.00	\$131	\$145	5 to 1
Philadelphia City .....	50	23.75	172	208	8 to 1
Philadelphia and Gray's Ferry.....	50	25.00	82½	101	4 to 1
Ridge Avenue .....	50	28.00	244	301	10 to 1
Thirteenth and Fifteenth Sts.....	50	16.75	227½	311	19 to 1
Union Passenger Railway.....	50	30.00	210	246	8 to 1
West Philadelphia .....	50	50.00	219	243	5 to 1
Frankford and Southwark.....	50	50.00	334	450	9 to 1
Citizens' .....	50	19.40	272	330	16 to 1
Second and Third Sts.....	50	40.00	237	300	7 to 1
Germantown .....	50	21.66	125	150	7 to 1
Green and Coates Sts.....	50	15.00	132¼	140	9 to 1
Philadelphia Traction.....	50	50.00	69⅞	100	2 to 1
Union Traction .....	50	10.00	9½	43	4 to 1

Union Traction stock is the chief variable, the Union Traction being the consolidating company, that has gathered all the rest under its wings and guaranteed dividends on the stock of the absorbed roads. A new assessment of \$7½ a share has been made by the Union Traction, making the total paid in \$17½ instead of \$10, as in 1897. The other figures in the paid-in column remain the same.

The company has 6 cars per mile of track. When Prof. Speirs wrote, in 1897, the Union Traction system included all the street railways in Philadelphia except the Hestonville line. The next year that was brought into the Union, but its miles and capitalization have been subtracted from present totals, so as to deal with the same system Prof. Speirs wrote about.

<sup>7</sup> Since then something has been done toward more effectively restricting overcapitalization of street car lines in Massachusetts, and the average capitalization has fallen from \$53,000 per mile, in 1894, to \$44,683 in 1897. In the central states the average capitalization was \$91,500 per mile in 1897, and in the middle states, \$138,600. Prof. Bemis thinks the fair capitalization in Massachusetts would be in the neighborhood of \$35,000 per mile, and cites the splendid road in Springfield (with 3 cars to a mile and 180,864 passengers per mile), which cost \$33,987 a mile, could be duplicated for \$31,500, and is capitalized at \$30,829 a mile. (*Municipal Monopolies*, p. 555.) My own investigations lead to the conclusion that \$25,000 to \$35,000 a mile is sufficient for a trolley road, except in very large cities. In 1896, when the West End claimed about \$84,000 a mile. Mr. E. E. Higgins (Editor of the *Street Railway Journal*, N. Y. city, a very high authority entirely favorable to the private companies) estimated the cost of duplication for Boston at \$62,682 a mile as the maximum (*St. R'y Jour.*, March, 1896). He referred to this estimate as high, and in another series of articles, in which the companies were not named, but identification was easy by the data, he said the system might possibly be duplicated for 60 per cent. of its capitalization—about \$51,000. Paying would add probably \$8,000 a mile. The present stock and bond capitalization is \$86,000 for each of the 304 miles owned by the company. It operates 315 miles (300 overhead trolley and 15 horse) and has eight to nine cars per mile.



cated for \$60,000 a mile.<sup>8</sup> The North Chicago Railway, worth about \$60,297 a mile, is capitalized at \$146,346, face, \$246,000 market value, and assessed at \$5,000 a mile. The West Chicago, worth, with the tunnels, about \$61,700, is capitalized at \$149,500 face, \$186,000 market value, and assessed at \$5,445 a mile. Out of about \$50,000,000 of stock issued by the eighteen companies in Chicago and its suburbs, about \$31,000,000 is pure water from the start. In a number of companies the stock is *all* water. For example, the Chicago and Jefferson, \$1,000,000, all water; the Chicago Electric Transit, \$1,500,000 stock, all water; the North Side Electric, \$1,500,000, all water; the North Chicago electric, \$2,000,000, all water; the Cicero and Proviso, \$2,500,000 stock, all water, etc.<sup>9</sup> Even an issue of bonds is sometimes

<sup>8</sup> Report of Illinois Bureau of Labor Statistics for 1896. Report of Special Committee of City Councils on the Street Railways of Chicago, 1898, see folding table opposite p. 70 and also p. 306; *Municipal Monopolies*, pp. 513-4.

The Spec. Com., p. 306, states the par capitalization of the three systems at 33 million stock and 30 million bonds, 63 million total; the cost of duplication, \$28,858,000, and the overcapitalization, \$34,400,000, or \$70,600 per mile each for the 487 miles of track. The North Chicago and West Chicago guarantee 30 to 35 per cent. dividends on stock of some of the leased lines (pp. 294-301).

The three companies—"West Chicago," "North Chicago" and "Chicago City"—have 390 miles overhead trolley, 82 miles cable and 15 miles horse, 487 total. The Illinois Bureau of Labor Statistics, 1896, went into the question of cost in great detail and with the estimates of expert engineers, real estate men and the statements of street railway financiers arrived at the following conclusions: (1) That at the maximum the cost of the cable systems, with 50 cars to the mile and all machinery, power houses, etc., belonging with them, would average \$136,000, aside from land and tunnels, while \$100,000 a mile was probably nearer the truth. (2) That \$40,000 a mile was ample for the overhead electric systems, aside from land and tunnels. (3) That, including land and tunnels, \$60,000 a mile was a reasonable estimate of the cost of duplicating the whole of the three systems, electric, cable and horse. The land of the companies, valued by experts, amounted to \$7,000 a mile for the whole system, with an average of twelve cars to the mile, and the tunnels averaged \$4,000 a mile when the cost was spread over the whole 487 miles.

On the estimates of competent engineers and statistics of actual construction, the Bureau found that the 42¾ miles of ordinary construction on the five L roads could be duplicated for \$250,000 a mile of double track, including stations; equipment and power plant, \$75,000—\$325,000 total, aside from right of way. On the 2¼ miles of loop, \$750,000 per mile was allowed for construction and \$500,000 per mile for "frontage." The average total per mile was \$373,280 aside from damages or right of way.

"In not a single instance was a cent paid for the stock (of the L roads), an aggregate of over \$49,000,000 of water, pure and simple." Adding up the actual receipts from sales of bonds it was found that the total moneys received by the L companies and alleged to have been invested footed up to \$33,203,000, or \$754,000 per mile, the difference between this sum and \$373,280, or \$380,000, representing the cost of the right of way and the millions divided among the original promoters."

<sup>9</sup> See letter of Mr. Vanderlip, quoted in 1896, report of Ill. Bureau of Lab. Statistics: "I find in an examination of the street railway companies that there is a total of, roundly, \$31,000,000 of stock issued by various local street railway companies that represents absolutely no investment. The capital stock of practically all the street railway companies organized in the last few years represents no money investment." A dozen cases of total water, such as those cited in the text, are then stated, and also the case of the Chicago Pass. Ity., which "has \$2,000,000 of capital, half of which is paid for and half represents no investment."

almost wholly water. For example, \$3,413,050 of the \$4,100,000 first mortgage bonds issued by the West Chicago Street Railway Company for the purchase of the \$625,100 of Chicago West. Div. Ry. stock at \$650 a share, represented no investment, and is therefore water in the form of bonds.<sup>10</sup>

On the five L roads of Chicago there was put a capitalization of \$1,555,000 per mile. They could probably be duplicated for \$373,280 a mile, aside from right of way, and \$754,000 a mile was all that was received for the securities of the roads—all there was to cover construction, land damages and the millions divided among the original promoters. One of the roads, the Lake street, had \$18,000,000 of liabilities in 1896, on an officially stated investment of \$3,317,000 for 7½ miles of road, nearly \$6 of liabilities for every \$1 of actual cost.

The market value of the St. Louis street railways is 4½ times the actual cost.<sup>11</sup>

The Milwaukee trolleys are capitalized at \$100,000 per mile of track face value of stock and bonds, yet the company admitted in court, May, 1898, that the whole plant could be duplicated for \$36,037 per mile.<sup>12</sup>

The Cleveland roads have an authorized capital of \$145,000 per mile, have issued \$136,000 a mile, only claim \$66,600 a mile *bona fide* investment; could be duplicated for \$29,000 a mile, or \$39,000 a mile with the paving, and report for taxation only \$10,400 a mile.<sup>13</sup>

The Capitol Traction Company, Washington, D. C., is capitalized at \$333,300 a mile, and could probably be duplicated for less than \$125,000 a mile.<sup>14</sup>

<sup>10</sup> Quoted substantially from Rep. Spec. Com. of Chicago City Council, 1898, p. 301.

<sup>11</sup> Report on Street Ry. Franchises by Lee Meriwether, Commissioner of Labor for Missouri, 1896, p. 22. Market capitalization, \$37,987,000; actual cost, \$8,415,000; assessed value, \$4,246,000. The figures relate to 1895. The Brooklyn investigation was the same year.

<sup>12</sup> Milwaukee Electric Ry. & L. Co. vs. City of Milwaukee, 87 Fed. Rep. 577.

<sup>13</sup> "The Street Ry. Problem of Cleveland." by Dr. Wm. R. Hopkins, 1896, Amer. Econ. Asso., pp. 317-19, 373-6—170 miles overhead trolley and 10 miles cable; a little more than 4 cars per mile.

<sup>14</sup> The Metropolitan Co. of Washington reports to Congress \$105,660 a mile for construction, equipment, etc., of its 22 miles of underground trolley, with over 13 cars per mile, and the total capitalization, land, junk pile and all, is only \$160,000 a mile.

In Toronto the \$33,000 of bonds per mile is probably enough to duplicate the road (overhead trolley), and the \$66,000 of stock per mile appears to be all water. In Brooklyn it appeared from an investigation in 1895 that the stock was 7 water to 1 solid, and by the returns for October, 1898, it seems that the whole of the 32 millions of stock and half the 21 millions of bonds have no basis of tangible property, but represent the capital value of the franchise right of taxing the people beyond the fair price of the service rendered.<sup>15</sup>

The following table represents approximately the situation in the principal street railways of New York:

New York Street Railway Inflation.

	Nominal capitalization per mile of track.	Market capitalization per mile of track.	Cost of duplicating the system probably does not exceed (per mile of track).	Probable water in market capitalization is about
Third Avenue Cable.....	\$526,316	\$1,080,000	\$150,000	6 to 1
Metropolitan System — Lines owned and leased, horse, cable and electric .....	472,700	640,000	90,000	6 to 1
Metropolitan lines owned—cable, electric and horse.....	1,130,000	2,350,000	100,000	22 to 1

The Third avenue has 14 miles of road, and 28 miles of track. It claims for each mile of track \$228,000 for road construction, \$200,000 per mile for equipment (cars, machinery, land, buildings and fixtures), and \$50,000 per mile for right of way. But these claims cannot be sustained.

A high official of the company testified before the Special Committee of the New York Assembly (1896, Vol. II, p. 1164) that the cost of the most difficult cable construction on the line (as difficult as any in the city, he said) had footed up, aside from real estate, less than \$100,000 per mile of double track, and could be duplicated for considerably less than that. On some streets, where the difficulties were less, the cost had been only about \$60,000 per double mile. So that the company's claim of \$456,000 for the road construction per mile of double track is 5 or 6 times the true value, according to the evidence; \$50,000 a mile of single track is a maximum.

As to the second item, the Illinois Bureau of Statistics (1896) has shown that \$90,000 a mile of track is a maximum for cars, machinery, power houses, storage houses, etc., on a cable road with 50 cars to the mile. The Third avenue, with half that many cars, should not figure over \$60,000 at the outside. Land should not go beyond \$15,000 per mile, which is more than twice the value found

<sup>15</sup> See section 13, Gaynor note.

by the Illinois Bureau for the Chicago electric and cable systems, with an average of 12 cars to the mile.

An estimate of \$125,000 per mile of track for everything except the right of way would, therefore, seem fair, especially in view of the facts First, that the Columbia Railway Company of Washington has built and equipt a first-class cable road, with 7 cars per mile, at a cost of \$85,850 per mile of track, aside from land, and Second, that the engineering data collected by the Illinois Bureau indicate \$100,000 per mile as the reasonable cost of the cable systems in Chicago complete, aside from the land.

As to the claim of \$50,000 a mile of track, or \$100,000 per mile of road for right of way, it may be noted that such entries are of doubtful character. (See Rep. of Spec. St. Ry. Com. N. Y. Assembly, 1896, p. 1095.) The Railroad Commissioners could not tell me of any sums paid to the city or state for the franchise, nothing but the annual license fees and taxes, which, of course, do not belong in the capital account. I could find nothing to justify this entry of \$1,443,000 in the account for capital expenditure, so I wrote to the company and received word from the Secretary that "this sum does not represent the specific payment to the city for rights of way, but it does include all payments made since the incorporation of the company, in 1853, for *legal services and other services and expenses* properly chargeable as items of expense for rights of way." The *Italics* are mine. In the case of the Broadway franchise we know that "legal services and other services and expenses" in obtaining the right of way cost the company \$500,000, without any "specific payment to the city," and the thing got out and the railway officers and the aldermen were indicted; but I am at a loss to understand how any *legitimate* expenses of organization, procurement of charter, etc., could possibly foot up to \$1,443,000. As a matter of fact, most of the city companies make no entry for the cost of right of way. I cannot find such an entry even in the Broadway account!

Suppose we allow \$200,000 for organization and other expenses properly chargeable to right of way (and that is more than double the cost of everything in this connection that is visible to the public); with 28 miles of track that would be \$7,000 a mile for "right of way." Then we shall have \$132,000 total cost per mile. Even if we allow \$90,000 a mile on the second item, instead of \$75,000, we shall still have but \$150,000 per mile of track, which is less than one-third of the face of the bonds and stocks per mile, and one-seventh of their market value.

The Metropolitan Street Railway Company owns 50 miles of track (about half horse and half cable and underground electric) and leases 177 miles (about 100 miles horse and the rest cable and electric).

Horse track can be built in New York city for \$6,500 a mile. (Testimony of Secretary of the Central Crosstown. one of the

Metropolitan roads, Rep. of Spec. Com. N. Y. Legis., 1896, p. 1097. His accounts showed \$103,200 a mile for construction of road, which, he said, could be duplicated for \$6,500 a mile.) Cars, 9 to a mile, \$6,000 to \$7,000. Horses, 40 to 60 per mile, \$2,500 to \$4,500. For land and buildings, \$18,000 per mile seems a liberal estimate. (See below.) General equipment, office furniture, organization expenses and other incidentals perhaps \$4,000. *A total of \$40,000 a mile at the outside*, with \$30,000 to \$35,000 as probably nearer the real values.\*

In dealing with the electric and cable roads it may be well to state a few facts in tabular form:

	Cost per Mile of Track.
Electric road construction, including overhead work.....	\$12,000
N. Y. Spec. Assembly Com. Rep., 1896, pp. 694, 910, 973.	
Albany trolley track, 90 pound girder rails (including \$4,000 a mile for overhead work), Spec. Com. Rep.....	11,477
"Huckleberry Road," with 90 pound girder rails and over- head construction (Spec. Com.).....	11,000
Metropolitan, Kansas City, electric road construction....	15,000
Syracuse trolleys, \$13,000 per mile of track and \$3,000 over- head, total road cost, aside from paving.....	16,000
(Testimony of officials of the roads to Spec. Com.)	
Springfield trolley, (Mass.), (3 cars and 180,800 passengers per mile), cost of the system complete, road construc- tion, equipment, etc., entire tangible assets.....	33,503
Could be duplicated for \$31,500 a mile. (Co.'s reports and valuation of engineer of Mass. Rd. Comssn.)	
Calumet Electric, So. Chicago, complete.....	33,333
(Ill. Labor Bureau Rep., for 1896.)	
Chicago General Ry., complete.....	28,752
(Ill. Labor Bureau.)	
North Chicago Electric and North Shore, complete.....	35,000
(Mr. Louderback in Mason, Lewis & Co.'s Investment Supplement, Feb., 1897.)	
Chicago Electric Transit, complete, with power machinery sufficient for many contemplated extensions.....	45,800
(Ill. Labor Bureau.)	
Milwaukee trolley system complete.....	36,000
(Admission of Co. in Court.)	

\*See Rep. of Special Com. N. Y. and Mr. Higgins' estimate in Street Ry. Journal, March, '96. Mr. Higgins gets a total of \$45,000 a mile as the cost of duplication for a first-class horse line in a giant city, but he estimates track construction at \$15,000, horses at \$100 each, etc., his figures being considerably above the cost, as shown by testimony before the Special Committee, by the statements of contractors, and in many instances by the reports of the companies themselves. The Central Crosstown of New York, for example, reports the cost of 658 horses, with harness, as \$38,650, or less than \$59 per horse.—Rep. N. Y. Rd. Com., 1898, pp. 1314, 1317. The Forty-second street road reports the cost of 145 new horses as \$8,200, or about \$56 each.—Ibid, p. 1332. As to track, see data already given. Mr. Higgins estimates land at \$10,000 and buildings at \$8,000 a mile, and 9 cars to a mile \$8,000. The real estate estimate I have not the means of testing, but the Forty-second and Manhattan reports the cost of 190 horse cars as averaging \$630 each, and the Second avenue reports the cost of 375 cars as averaging \$750, and 250 of the cars are electric.



Cleveland overhead trolleys, with paving \$39,000 a mile, probable cost of duplication, complete, aside from paving .....	29,000
(Dr. W. R. Hopkins).	
Philadelphia Traction system, complete, maximum cost, including \$20,000 a mile for asphalt and granite paving curb to curb, \$76,000, (Prof. Spiers); probable cost of duplicating road, without paving, is under.....	50,000
West End Trolleys, Boston, maximum \$62,000 (E. E. Higgins, St. Ry. Jour., Mar. '96, figuring track and overhead construction at \$22,000 per mile of track, without paving, which is considerably too high), cost of duplication aside from paving is probably not above \$55,000 or at the outside .....	60,000
Mr. Badger (Electrical World, Oct. 31, 1891), gives the average total investment per mile of track, real estate, road and equipment for 45 horse roads.....	31,093
And for 22 trolley roads.....	27,780
He says: "As fine and substantial roadbed as electric car ever ran over was built at a cost, exclusive of paving, of about \$5,000 per mile. "Overhead construction \$2,500 to \$5,000, with iron poles, etc." concluding "Thus we have as an extremely liberal estimate, \$26,000 per mile, exclusive of real estate, buildings and paving, for a road suitable for the heaviest metropolitan traffic." (\$7,000 of the estimate was for cars.) "And it is a fact that a good and satisfactory road can be built and equipt for \$20,000 a mile."	
Estimated cost of overhead trolley system of highest character in giant city, complete (aside from land, with 5.7 cars per mile).....	70,000
(Report of Mr. Pearson, Engineer of the Metropolitan Ry. Co., New York, to the City of Liverpool, 1897. For each additional car per mile, add about \$5,000).	
Cost of underground trolley system of highest character in giant city, complete, aside from land, with 5.7 cars per mile .....	96,000
Metropolitan Underground Trolley, Wash., reports construction and equipment, complete, aside from realty (13 cars per mile).....	105,660
Cable system in giant city, complete, aside from land, maximum estimates, with 50 cars per mile, and full equipment, average .....	140,000
Reasonable estimate, omitting old cars, etc.....	100,000
(Ill. Labor Bureau and their engineers.)	
Cable road construction (testimony of Third Ave. officers, Rep. N. Y. Spec. Com.), less than \$50,000 a mile, Complete system, aside from right of way.....	125,000



Columbia Cable Ry., Washington, reported cost, complete, (aside from land), with over 7 cars per mile.....	85,830
Metropolitan Cable, Kans. City, \$50,000 a mile road construction, \$20,000 a mile machinery, real estate, etc., with 6 cars to a mile, total.....	70,000
(Mo. Labor Bureau, citing St. Ry. Journal and Vice Pres. Holmes, of the Metropolitan system.)	
Land for electric and cable systems in giant cities, averages \$7,000 per mile of track, by expert estimates of the actual possessions of the leading Chicago Cos. "Real Estate," (including land and buildings, except the repair shops), is stated for the Metropolitan St. Ry., of Kansas City, as \$10,200 a mile. (Mo. Labor Comssrs. Rep., 1896, p. 56, citing the St. Ry. Journal and Vice Pres. Holmes, of the Metropolitan Ry.) The West End Claims \$17,000 per mile for "Real Estate," which means land chiefly as the power stations, car houses and shops are named in other items. Mr. E. E. Higgins (St. Ry. Journal, Mar. 1896), puts <i>land</i> at \$9,000 a mile for the West End, eliminating what is not needful for the street railway system, a street railway company has no right to hold a lot of land for other than street railway purposes and capitalize it as part of the railway system for passengers to pay dividends on.) If \$7,000 a mile covers land in the Chicago systems and \$10,200 land and buildings in Kansas City and \$9,000 the land required in Boston, it is surely liberal to allow for land in New York.....	15,000
Some data relating to the cost of L roads and the history of the Manhattan Elevated, of New York, may be useful here:	
Elevated road, including stations, actual cost in Brooklyn, 1892-3, \$297,000 per mile of double track; could be duplicated perhaps for \$250,000. Equipment returned by N. Y. L roads, \$124,000 per mile, double track. Total per mile of single track, therefore not over.....	210,000
Cost of L roads in Chicago, according to Ill. Labor Bureau, for entire L system, road, stations, cars, buildings, land and all, \$325,000; for straight road, including loops, \$373,280 per mile, double. Per mile of single track this would indicate .....	190,000
For the proposed Boston Elevated (13.4 miles of road), the engineers of the Mass. Rapid Transit Comssn. (Rep. 1892, pp. 85, 251) estimated road construction without stations at \$443,000 per mile of road; passenger stations, \$100,000; shops, yards, trains, coaling and watering stations, equipment entire, \$157,000. Land damages, \$51,000. Total, \$751,000 per mile of road. Indicating for construction per mile of single track.....	350,000
And for land damages.....	25,500

The Engineer of the Boston L Co. estimates for 10 miles of road *electrically* equipt, \$297,000 a mile for road, \$389,000 for stations and equipment, and \$300,000 to \$500,000 a mile for land damages. A total of about \$1,000,000 a mile of road or per mile of track, aside from land damages .....

345,000

And for land damages.....300,000 to 400,000

The difference as to the land damages between the company engineer and the state engineer seems very great, but as I do not know the details of the company's estimate, I cannot compare it with the other.

In the light of these facts the history of the New York L roads is of much interest to the student of overcapitalization.

In 1879 the New York Elevated and the Metropolitan Elevated were practically consolidated in the hands of the Manhattan by leases for 999 years. The Manhattan agreed to pay to each of the old companies interest on  $8\frac{1}{2}$  millions of bonds and  $6\frac{1}{2}$  millions of stock, and issued 13 millions of its own stock for pro rata distribution among the stockholders of the old companies, making the total capitalization 43 millions upon an actual capital expenditure of  $22\frac{1}{2}$  millions. Subtracting the bonds we find that 23 millions of stock represented about  $5\frac{1}{2}$  millions of capital expenditure—4 times the original cost and probably over 5 times the present value. The stock of the old companies was largely water, and the \$13,000,000 issued by the Manhattan was "only a pyramid of water on a pedestal of transparent fraud." (Report of the Board of Railway Commissioners, Assembly Doc. No. 162, 1883.)

The stock and bonds of the Manhattan now amount to 86 millions face and 95 millions market value, or \$2,640,000 per mile of double track, yet, as we have seen, it could probably be duplicated for \$500,000 or \$600,000 per mile of road (or \$700,000 at the very outside), plus, perhaps, \$50,000 to \$200,000 land damages—a total cost, say, of \$400,000 per mile of single track. This estimate, however, must not be taken as having anything like the conclusiveness of the valuations of horse and electric roads, because of the indefiniteness of the land damage items. There is a chance here for some one to make a valuable contribution to the science of this subject by ascertaining what the L roads of New York actually did pay for land damages.

Returning to the surface lines let us study the leading system in the light of the data tabulated above.

The Metropolitan system has 8 cars per mile on the horse lines and an average of 14 on the cable and electric. Taking the highest applicable figures indicated by the above data, with allowance for legitimate organization and franchise ex-

penses,<sup>16</sup> we have a maximum of \$40,000 a mile horse and \$150,000 a mile cable and electric for the cost of duplication.<sup>17</sup> This gives an average value of \$95,000 per mile of road owned, call it an even \$100,000. Taking the whole system as 125 miles horse and 104 miles cable and electric, the highest figures given for either sort of road, the average value per mile of track would be under \$90,000. The stock and bonds of the Metropolitan and the leased lines, less the securities of the leased lines held by the Metropolitan, gives an outstanding face capital of \$472,700 per mile of track, and at present quotations the market capitalization is \$640,000 per mile of track, or 7 times the true value. The bonds and stock of the Metropolitan Company alone, after subtracting its holdings in the bonds and stocks of leased lines, etc., gives a face value capitalization of \$1,130,000 per mile of track *owned*, and the market capitalization is \$2,350,000 per mile of track owned, or more than 23 times the real value.

The way, or rather, one way, in which large overvaluations arise, was explained to the Special Committee of the New York Legislature by Mr. Caswell, bookkeeper of the Albany Railway. He said that the size of the construction account was due to the fact that it had been receiving all the charges for construction since the road was first built—everything that went into the road, buildings, stables, power house, etc., since 1863; one expenditure piled upon another, with no subtraction for depreciation or extinction of property, so that the capital account represented, not the present real value of the plant, but that value plus the value of dead horses, worn out machinery and old tracks long since torn up. (Special Report St. Rys. N. Y., 1896, pp.

<sup>16</sup> So far as I can learn, the Metropolitan's claim for right of way is very small. I have several annual reports of the New York Railroad Commissioners, and find that only two of the twenty-five lines in the system make any entry for franchise or right of way in their returns, and it is well known that the companies did not pay either city or state for their privileges anything except their yearly taxes and license fees. In one case we know that the right of way did cost \$500,000, but it was paid to the aldermen and lobbyists, and is not entitled to be considered as part of the legitimate cost of duplication. (See Report on the Broadway Surface Railroad Co., New York Senate Doc., No. 79, 1886.) There is no entry for right of way in the company's accounts, but there is an entry for "Overhead and underground construction, superintendence and organization expenses, law expenses, etc., \$4,130,464," and perhaps the \$500,000 comes in there.

<sup>17</sup> The real value of a railway system is below the cost of duplication. New cars and rails, etc., are worth more than those that are partly worn out.

695-6; see also p. 1096.) *The valuations returned by the companies include the cost of all preceding roads in the same location, along with the cost of the present road, and sometimes other items not mentioned by Mr. Caswell.*

Looking at the facts of the preceding section about profits, and of the present section on overcapitalization, it is no wonder that Mr. E. E. Higgins, Editor of the Street Railway Journal and author of "Street Railway Investments," advises investors that street railways in large cities "are among the safest and most profitable in the entire range of capital investment, \* \* \* dividends on stocks being with few exceptions regular and satisfactory, in spite of the *extreme overcapitalization* of costs."

If the bonded debt of the Western Union Telegraph Company is subtracted from the cost of duplicating the operative plant, the water in the stock appears to be about 18 to 1.<sup>18</sup> The Sugar Trust bought the Brooklyn refineries at 30 times their former capitalization, making the payment in sugar stock, which is now quoted at 120 preferred and 180 common, so that the water in the present market capitalization representing that transaction is probably not less than 40 to 1. When the nominal stock of the Sugar monopoly was \$75,000,000, Henry D. Lloyd said it was *all* water, as the value of the plants was more than covered by the \$10,000,000 of bonds.<sup>19</sup>

According to a member of the Congressional Committee that investigated the Oil Trust in 1888, \$6,000,000 was the value of the "works" on which the trust had issued \$90,000,000 of stock, which sold in the market at a valuation of \$160,000,000.<sup>20</sup> The stock now amounts to more than \$97,000,000 nominal or face value, and it is selling at 525, which gives it

<sup>18</sup> The Telegraph Monopoly, Arena, March, '96.

<sup>19</sup> "Wealth against the Commonwealth," p. 33, citing legislative investigations.

The American Newspaper Publishers' Association has made a statement signed by 157 daily newspapers to the effect that the entire output of the Paper Trust could be produced by a present investment of \$15,000,000; so American consumers of newspapers are forced to pay dividends on an inflated and wholly fictitious capitalization of at least \$40,000,000.

The market capitalization of the Tin Plate Trust is \$29,000,000, and its properties are worth about \$12,000,000. (Review of Reviews, Vol. XIX, pp. 686-7.)

<sup>20</sup> Lloyd, p. 82.

a market value of \$509,250,000—over a half billion of value, most of which represents nothing but the monopoly privilege of taxation without representation.

Take the Red Manual of Haven and Stout or the Hand Book of Securities, DeHaven and Townsend, 40 Wall street, and run your eyes down the columns of quotations of the various bonds and stocks. Whenever you find a specially high quotation, turn to the name opposite the figure, and almost always you will find a gas company or street or steam railroad, telegraph or telephone, or a trust or some other recognized monopoly, or else a banking institution. Consolidated Gas, 213; Chicago and Alton, 170; Equitable (?) Gas, 213; Commercial Cable, 180; Lake Shore, 215; Metropolitan Street, 260; New York Mutual (?) Gas, 290; Pennsylvania Coal, 350; Pullman Car, 216; Sugar, 180; Oil, 490; U. S. Trust Co., 1,290; New York Life and Trust, 1,275; Central Trust, 1,411; Fifth Avenue Bank, 3,205; Chemical Bank, 4,150—such are some of the figures that meet us as we run over the columns. \$4,150 is a pretty good market price for a share whose par value is \$100. You may issue \$4,000 of stock for every \$100 paid into the business, or you can issue \$100 of stock and let the excess of profits of your monopoly of position, influence or possession, swell it to \$4,000 of market values, or you may overissue in part and let the stock swell the rest of the way up to your profits. In either case your capitalization is inflated. If your business is regarded as semi-public by the people, and they show an interest in examining your accounts, it is safer to overissue the stock. If gas consumers saw on the face of the returns that they were paying 20, 30 or 60 per cent. on the money actually invested, they would be rushing to the Commissioners to have the rates reduced. But issue a lot of stock and get it into the hands of “innocent purchasers” and you are comparatively safe.

Seriously the inflation of capital, or watering of stock of the inanimate order, is a most pernicious practice, protecting the enormous extortions of monopoly by hiding them from the people, checkmating reduction of fares by commissions or boards of regulation by confronting them with the innocent



holders of purchased stock, and compelling the people, when they come to buy the plant, to pay several times its value.

#### FALSE STATEMENTS AND SUPPRESSION OF FACTS.

4. *False accounting, misleading statements and suppression of important facts* are favorite methods of keeping the people in the ignorance so necessary to the continued existence of the great monopolies. The monopolists know that their mastery over the people could not last one single day if the people knew what they know.

Various instances of this evil of deception by commission and omission have already been given. We have seen the private water companies refuse to state their expenses and profits. We have found gas companies and street railways representing their values at many times the real figures, and stating the cost of construction at 2, 3, 5, 10, even 16 times the truth. In fact the whole section on overcapitalization is in evidence here since the paying of apparently moderate dividends (5 or 6 per cent., perhaps) on an inflated valuation, which makes the real dividend on actual value an immoderate one (20, 50, 200 per cent., perhaps), is in itself a most serious form of suppression and deception. A few examples on other lines may be of use.

We have seen the Bay State Gas capitalized at \$5,000,000 on an actual investment of \$750,000, which was the whole capital expenditure down to 1893, according to the proof in the Matthews Investigation.<sup>1</sup>

We may note here the mass of contradictions presented by the company's statements to state officials:

#### *Valuations of Bay State Gas Property as per Official Returns.*

Year	Sworn Returns to Tax Commissioners	Sworn Returns to Secretary of State	Sworn Returns to Gas Commissioners	Assessors Valuations
1886 .....	\$25,000.00	\$725,956.16	\$725,956.16	\$76,000
1887 .....	500,000.00	876,956.16	876,956.16	202,000
1888 .....	500,300.00	770,317.28	833,912.91	501,300
1889 .....	500,300.00	779,451.52	4,974,554.74	526,300
1890 .....	500,300.00	5,047,145.24	5,038,726.49	526,300
1891 .....	4,972,191.49	5,141,774.12	5,130,732.10	631,500
1892 .....	5,022,773.28	5,193,149.33	5,125,006.44	661,500

The investigation resulted in a sort of compromise compelling the company to cut down its capitalization to two millions. Just

<sup>1</sup> Report on Bay State Gas Investigation, City Print, 1893, p. 47.



before this was done the company reported to the Gas Commission (p. 162, Rep. of Jan., 1894):

## BAY STATE GAS COMPANY.

Real Estate .....	} \$4,954,330.
Machinery and Manufacturing Appliances...	
Street Mains .....	

Now the investigation did not change the real estate, machinery or pipes, but only the paper capitalization, yet the company's next report to the Gas Commission (Rep. of Jan., 1895, p. xi, App. A) contains the following:

## BAY STATE GAS COMPANY.

Real Estate .....	} \$1,956,379.
Machinery and Manufacturing Appliances...	
Street Mains .....	

The land, buildings, machinery and pipes had shrunk three millions in one year because the legislature had cut out the bogus bond and forced down the capitalization by the said amount. (See p. 80.) The assessors did not appear to find any change in the property, for they assessed it at \$661,500 after the bond reduction, the same as before.

In 1892 the cost of gas in the holders in Boston was 33.3 cents per M, and the cost of distribution 19.4 cents, yet the Boston Company reported these costs as \$1.02, instead of 52.7 cents.<sup>1</sup> The Gas Commissioners knew the truth, but suppressed it. When the Investigating Committee appointed by the legislature ordered the Commissioners to supply information, the Hon. George Fred. Williams, counsel for the city of Boston, went to the office of the Commissioners to get a copy of the returns of the gas companies. A clerk brought the copy and gave it to one of the Commissioners, who took it and tore out the last leaf, saying to the clerk, "What did you put that in for?"<sup>2</sup>

That leaf contained a statement of the actual cost of making and distributing gas, and it was only with the greatest difficulty that Mayor Matthews and Mr. Williams succeeded in obtaining the facts. The companies did not wish the people to know the truth, and the Commissioners allowed false statements to go out to the people year after year in their reports; refused to allow examination of these returns, tho a part of the public records of the office; kept the facts to themselves during suits for reduction of rates, protecting the companies from just reductions and entailing a waste of time and money that would have been unnecessary if the facts known to the Commissioners had been brought to light and acted upon; sought to suppress the facts even when ordered by legislative authority to supply them, and after all, when the "verbatim" report of the investigation was published under authority of the state, all these vastly important data were omitted, and Mayor Matthews had to have a corrected edition of the report published by the city in order to get the facts to the people.

<sup>1</sup> See Municipal Monopolies, p. 589.

<sup>2</sup> See the City Report of the Investigation issued by the Mayor, 1893, pp. 21, 17, 14, 9.

The West End Street Railway Company, of Boston, for several years reported an average operating cost, with electric traction, of 25.8 cents per car mile, while the reports of companies in New York, Buffalo and Chicago, and the statements of railway officials in Philadelphia and New York showed the cost in those cities to be 10 or 11 cents, or 12 cents at the outside. The West End reports gave a higher operating cost per car mile with electric traction than was shown for horse traction by the former reports of the same company. This was absurd for it was well known that electric traction was much cheaper than horse power. To cap the climax, the general manager of the West End told a committee from Glasgow that electric traction had reduced the company's car mile operating expenses 20 per cent.<sup>1</sup> One of the street railway circulars prepared by the writer and issued by The Citizens' Committee called attention to the contradiction, and the next year the West End report was so adjusted as to show a car-mile cost about 1-5 below the old horse reports, but still, in all probability, very much above the truth, as were also the old reports.<sup>2</sup>

<sup>1</sup> Rep. of Glasgow Com. on Mechanical Traction, 1896, p. 25.

<sup>2</sup> See *The People's Highways*, Arena, May, 1895, for several other im probable statements in West End reports. The portion of the circular referred to above was substantially as follows:

The West End reports an operating cost in 1896 of 24.5 cents a car mile, and its reported cost of operation from 1891 to 1896 inclusive gives an average of 25.8 cents a car mile with electric traction, or more than twice the cost in New York, Philadelphia or Chicago. How can it be? It is not the long cars, for Philadelphia, New York, Chicago, etc., have the long car—it cannot be wages, for New York electricians pay as much as the West End, and Detroit wages are almost the same; it cannot be the cost of coal, for the difference due to this cause should not exceed 1 cent on each car mile as between Boston and New York, Rochester, Buffalo or Detroit. It may be difficult to believe that the company's reports are incorrect, but it is quite as difficult to believe that the legitimate cost of electric traction in Boston under good management should be as much as the reported cost. Not only do the data of other roads oppose such a conclusion, but the West End's own reports are equally conclusive against it. In 1889 the company reported the car mile cost as 24.7 cents, 96 per cent. of the mileage being made with horses. In 1888, the whole mileage being with horses, it reported the cost of operation as 24.8 cents per car mile.

Now it is a universally recognized fact that the operating cost with electric traction is much less than with horses. Mr. C. L. Rosstun, President and General Manager of the Brooklyn Heights Company, says that the car mile cost with the trolley is about half the cost with horses.

Mr. J. S. Badger, in the *Electric World* for October 31, 1891, brings together the statistics of 22 trolley roads and 45 horse roads and shows that the average cost with electric traction is less than one-half the average with horse power—these averages will not permit as precise a conclusion as is possible where the two modes of traction are tried in the same city, but they have much weight as tending to corroborate the specific statements of leading experts.

President Vreeland of the Metropolitan Company, New York City, says that if he could have the trolley he could easily operate at 12 cents a car mile, the sixteen million car miles that now cost him 17 cents with horses. Electric experience in New York indicates that he would have been justified in placing the cost of the trolley mile below 12 cents.

The Special Committee of Glasgow that went to many cities for the express purpose of comparing electric travel with horse travel, says on page 39 of their report that the testimony everywhere was that electric traction is cheaper than horse power, and that its adoption results in a marked and immediate increase of the traffic: 34 per cent. in Hamburg, 50 per cent. in Rouen, etc., thus conferring a double benefit on the companies.

More pointed still is the statement that Mr. Sergeant, General Manager of the West End Street Railway, made to the Glasgow Committee (Glasgow T. M. Report, December, 1896, p. 25), to the effect that the adoption of electric cars had added 17 per cent. to the revenue, and "reduced the operating expenses per car mile by 20 per cent."—a statement in strong contradiction of the West End reports.

The Boston Rapid Transit Commission found that the Manhattan Elevated of New York charged up new construction to operating expenses.<sup>1</sup> Their construction account is full enough to get along without feeding for a long time, and it's just as well not to let the people know that a 2-cent fare is more than enough to cover the normal cost of operation on a well-constructed L road in one of our big cities.<sup>2</sup>

Sometimes when the people or their officers demand an investigation the monopolists succeed in packing the committee. A flagrant case of this sort occurred in Philadelphia in 1894. Mayor Stuart asked councils to make an appropriation for a municipal electric light plant. Councils were dominated by the Electric Trust, the president of one of the chief companies being a leading councilman, and many others being interested more or less, so they did not wish to do as the Mayor desired. They could not afford, however, to ignore a request behind which there was so much force of reason and public sentiment, so they called for estimates of cost and appointed a committee loaded with men interested in and acting for the electric companies.

The Director of Public Works and Chief Walker, of the Electrical Bureau, returned careful estimates, showing that a 2000 full-arc plant could be built for \$318 per arc and operated for \$58.50 a year, or \$72, including depreciation (3 per cent. on  $\frac{3}{4}$  of the plant, which, the chief said, was sufficient), taxes and insurance (at 1 per cent. each). Interest would add \$9.50 more, making \$81.50 total, an estimate which was high, as the chief said he intended it to be. The chairman of the committee (in reality an attorney of the Electric Trust), instead of conducting the investigation in a judicial manner, instituted a determined attack upon Chief Walker and Director Beitler and their recommendations, endeavored, in every way, to magnify the cost, and gave the closing argument to Mr. Cowling, manager of a company a large part of whose business would be gone if he could not keep the city from making its own light, and who testified that the cost of an arc light per year was \$146 (a statement shown to be utterly false by overwhelming testimony in the Senatorial Investigation, already referred to, in the same city the following year). The councils refused to make an appropriation, as, of course, they intended to do when they packed the committee with the enemies of the measure, and to justify their refusal the ridiculous figures of Mr. Cowling and the chairman's nonsense were printed in pamphlet form and spread broadcast; *but the chief's estimates were not put into the pamphlet.*<sup>3</sup>

The publication of false statistics and the making of solemn

<sup>1</sup> Report of Rap. Tr. Commission of Mass. Legislature, 1892, p. 91.

<sup>2</sup> See estimates of engineers placing operating cost on the proposed Boston L at 38 or 39 per cent. of receipts on a 5-cent fare, or less than 2 cents for operation (Rep. Mass. Rap. Transit Com., p. 90).

<sup>3</sup> Arena, Vol. 14, pp. 457-8. See Journal of Select Council of Philadelphia, Oct. 5, 1893, to March 30, 1894, for the full record.

affirmations that gas, electric light, transit, etc., cost as much, or almost as much, as the existing charges of the companies constitutes a favorite pastime of the monopolists. Rarely has a city begun to talk of public ownership but that the movement has been met by assertions of the private companies that under the particular conditions in that city the service cost about as much as was being charged for it, and that the city would lose money if it went into the business; and rarely has a city disregarded these statements and established municipal ownership without discovering that such assertions were utterly baseless. It will not do to rely upon corporation statistics without disinterested corroboration.

"If the city of Des Moines, four years ago, had accepted the statistics offered by its water company, it would not have reduced the water rates 33 to 40 per cent. by municipal control; nor would the Supreme Court of Iowa have pronounced these rates reasonable had it been guided by the showing of the water company's expense of operation, including interest on excessive capitalization, exorbitant salaries to officials, etc.

"Neither would the city now be under contract for the erection of a municipal lighting plant, to cost \$105,000, which the contractors agree to operate for \$65 per arc burning all night and every night if heed had been given to the statistics by which the General Electric Company proved (?) that such a plant could not be built for less than \$250,000, and might cost \$350,000, and could not be operated for less than we were then paying, namely, \$126 per lamp. Instead of accepting these 'statistics' we relied on the estimates of our engineers as to the cost of erection and operation, and they corresponded almost exactly with the terms of the contract we succeeded in securing."<sup>1</sup>

If Rockford, Ill., had paid attention to corporation statistics it would still be paying \$125 per arc instead of \$52. The city's engineer estimated the cost of producing light under municipal ownership at \$56 per arc. The electric company declared it could not be done, and exhausted every means to defeat the movement, but at the last minute, when the city was about to contract for a municipal plant, the company offered to furnish light at the rates estimated by the city's engineer if the city would abandon its intention of building a municipal plant. The city, preferring to own its own pole line, contracted with the old company at \$52 per 2000 candle power lamp burning all night and every night.

The monopolies exceedingly dislike the daylight; publicity is not congenial to their retiring dispositions. When in the course of trial their books have been called for they have even abandoned important suits rather than bring their books into court. The gas and electric companies, railways, telephones, Sugar Trust and Standard Oil agree in refusing to furnish materials for a complete biography. Even in Massachusetts, where the companies are re-

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<sup>1</sup> Quoted substantially from Mayor MacVicar in the *Progressive Age*, Feb. 15, 1898.



quired by law to make returns, the big electric light companies omit some facts, like the amount of current sold for motor purposes, etc., the absence of which makes it impossible to make exact comparisons or reach entirely definite conclusions. The Sugar Trust systematically conceals its books from investigating committees, and even refuses to give the information required by the Census laws.\* The Standard Oil not only keeps its books and facts from legislative committees, but it has been known to refuse for years together to make any tax return in a state where it had many millions of property subject to taxation;<sup>1</sup> it has not hesitated at perjury when necessary to conceal inconvenient facts;<sup>2</sup> and it is strongly suspected of having procured the mutilation of public documents, the theft of testimony taken by a Congressional Committee and the abstraction of court records containing facts it wished to suppress.<sup>3</sup>

#### POOR SERVICE.

5. *Poor Service and Lack of Service*, tho not so generally characteristic of private monopoly as high charges and excessive profits are, nevertheless, sufficiently prevalent to be named among the evils of monopoly in private control. *The monopolist does not aim at service, but dividends.* Service must yield to profit except where the law intervenes and manages to get itself enforced, or in the extremely rare case of a monopoly whose owners have tender, public-spirited consciences of sufficient power to govern them in their business relations. Fortunately, however dividends are, to a considerable extent, dependent on effective service. If the gas wont burn, people will use electric light, or oil, or acetylene. If the street railways behave too badly, the people will use busses and bicycles. There is no such thing as an *absolute and compulsory monopoly* as yet. A monopoly is an advantage *tending* to shut out competition. But competition in the shape of possible substitutes is not yet shut out from any line of business. If wagon transfer, bicycle travel and the street railways in a great city should come under one control, or the Standard Oil should get command of all the oil wells at one end and of all the gas and electric light franchises of a city at the other, we

\* Review of Reviews, Vol. XIX, p. 685.

<sup>1</sup> Lloyd's Wealth against the Commonwealth, Chap. XIII, p. 166, et seq.

<sup>2</sup> Ibid., 59, 86, 89, 95, 96.

<sup>3</sup> Ibid., p. 83.

should begin to realize what monopoly could do in the way of exorbitant rates and imperfect service. We have not experienced the full possibilities of monopoly, but we have some broad hints, and among them is the lesson that private monopoly tho opposed to the adulterations of competitive manufacture, nevertheless, in various other ways tends to poor and insufficient service.

In any of our larger cities, day after day, hundreds of cars may be seen crowded to overflowing—seats full, aisles so densely crowded that the conductor can scarcely wedge his way thru to get the fares, and both platforms loaded to the pressure of a mob—and if you ask the managers for better service they tell you that the people on the straps make dividends. That was the explanation of a West End official, I am told, when his attention was called to the crowded cars by a sufferer who often had to stand up half or three-quarters of an hour going from his home to his office and back in cars where the people were hanging in festoons on the straps and riding outside in every available fashion, and who has frequently counted 90 people on a car at a time—"strap passengers make dividends," said the railway officer, and doubtless he was right. The more people in a car the smaller the expense per passenger for wages of conductor and motorman, maintenance of track, production of power, etc., and the larger the part of each 5-cent fare that can go to the profit account.

Warming the cars is important both for comfort and health, and the means of doing it properly are well understood, yet the service is poor in this respect on many street car lines. In moderate weather, when it doesn't make much difference, the Boston electrics are nicely warmed. But when the thermometer drops to zero the radiators go to sleep. Being unequal to the task imposed upon them they get discouraged and retire from active service. On the Elevated, in New York, the cars are generally comfortable, even in the coldest weather. But on Broadway the cars are heated with stoves that behave in anything but a civilized and enlightened manner. If you get near the stove you think you are sitting on a gridiron in Dante's *Inferno*, and if not near the stove you think you are with Peary, at the pole. In Philadelphia almost all the cars are cold.

The bad service rendered by many electric light companies is matter of common complaint. The 2000 candle power arcs contracted for in New York city were repeatedly declared by the City Bureau of light to be really little more than 1000 candle power. Philadelphia pays inspectors to test the arc lights nightly, to see if the companies are living up to their contracts. Many times the lamps fall far below the agreement. The latest report at hand shows that over 7000 lights were deducted from the bills of the various companies during the year. The *Aegis* of March 3, 1893,



p. 168, gives a list of 35 cities in 20 states whose lamps were examined by experts and found to be far below the contract requirement.

Our telegraph and telephone service is much inferior to that afforded by many of the public and co-operative plants in Europe. Complaints of the poor service of the Western Union Telegraph are multitudinous. It manifests itself in slowness, inaccuracy, insufficient facilities, failure to guard the secrecy of messages, absence of proper co-ordination with the telephone, use of antiquated methods, etc. It is no uncommon thing for a person to send a message and then get on a train, or mail a letter, and reach destination in person or by post before the arrival of the telegram. Professor Richard T. Ely and the late President Francis A. Walker have testified to the inferiority of our service as compared with that of Europe, and Professor Simon Newcomb, of Yale, says that the telegraph service in the United States is the poorest in the world.<sup>1</sup>

Our telephone service is not only inferior in universality, but for the most part also in quality and convenience. We have no express talks, no telephonograms, no telephoning of mail matter, and practically no telephoning of telegrams.<sup>2</sup> No one who has not given special attention to the subject can have any conception of the improvement of our telephone service easily possible under a well co-ordinated system, offering low rates and making *service* the main object.

Private companies for the supply of water, gas, electric light, transportation, telegraph and telephone service, etc., avoid the small towns and sparsely populated districts, because they can get more profit on their money in dense populations, and they do not care whether the country is well served or not. Many towns would be without any general water supply if public enterprise had not been willing to enter where private enterprise would not. A considerable number of towns of 3000 or 5000 people and villages of less than 3000 inhabitants now successfully operating electric light plants would probably not be enjoying the privilege of well-lighted streets if they had waited for the private companies.<sup>3</sup>

The neglect of small towns and country districts by the Bell Telephone Monopoly is one of the most emphatic points in its history. In many parts of Europe the whole rural population is as well supplied with telephones as the people of large towns in most of our states. In Norway, Sweden and Switzerland, where the service is public, there is one telephone to each 85 persons. In the United States the figure is 165. Massachusetts, the home of the Bell company, and a few of our cities, are well telephoned, but for

<sup>1</sup> For details and numerous facts see my articles on The Telegraph Monopoly, *Arena*, Vol. 15, p. 948, et seq.

<sup>2</sup> See my chapter on The Telephone in Municipal Monopolies.

<sup>3</sup> See remarks of Prof. Commons, and admissions of Mr. H. A. Foster, a writer opposed to municipal ownership: *Municipal Monopolies*, p. 66.

the most part little has been done to develop the service to anything like its proper proportions. Even our best cities are far behind some of the leading telephone centres of Europe, as the following table shows:

*Ratio of Phones to Population.*

	No. of Persons To each Telephone		No. of Persons To each Telephone
Stockholm, Swed., State System	23	New York, Private System....	108
Christiania, Norway, Munic. "	30	Greater New York, Priv. Sys'm	120
Trondhjem, Norway, Munic. "	38	Philadelphia " "	170
Grimstad, Norway, Co-op. "	25	Boston and Suburbs " "	60
Berne, Switz., State " "	40	St. Louis " "	127
Geneva, Switz., State " "	30	Chicago " "	129

Not all the state systems in Europe do better than our companies in the distribution of service—some state ownership is by no means *public* ownership, and even real public ownership is not always in the front rank of progress and enlightenment; but the examples given show how far our companies are from giving our people the full possibilities of the telephone service.

#### DISREGARD OF SAFETY.

6. *Disregard of Public Safety* is a twin evil with the last. Grade crossings, that kill and maim their thousands every year; stoves that are dangerous in case of accident; carelessly placed or improperly protected electric light wires, that injure firemen, interfere with the extinguishment of conflagrations, and not infrequently cause them; overhead trolley wires, that even Yerkes admits are a menace to life and property; single flange rails obstructing the streets and wrenching the wheels of innocent carriages; fenderless cars or heavy iron battering rams instead of true fenders; leaky gas pipes left to contaminate the air, and sometimes neglected till they cause terrific explosions; beef that is more dangerous to life than Spanish bullets, and oil below the standard test required by law—such are a few examples of the tendency of private monopolies to disregard the safety of the public.

In 1890 a committee of the New York legislature found that "sixteen deaths were directly traceable to the poor insulation and bad arrangement of the wires of the electric light companies of New York city." Fire Marshal Swene, of Chicago, reported 231 fires caused by electric light wires and lights during two years in that city. In his address to the twenty-eighth annual meeting of the National Board of Underwriters, President Skelton said: "Concurrent action regarding our greatest enemy, electricity, seems to be imperative. There has been plenty of evidence that fires caused

by electricity are growing alarmingly frequent, and inspections show that but few buildings in any community are safely wired. This great and increasing danger cannot be ignored. It threatens the very life of fire insurance." In Boston we have had emphatic object lessons on the danger of the wires; they have not only originated a number of disastrous fires, but almost always they greatly hinder the subduing of the flames, and injure more firemen than all other perils put together. The firemen very justly dread them more than they do the fire.

Every one who reads the newspapers knows the fearful record of the trolley cars.<sup>1</sup> In Brooklyn alone they killed 104 persons in two years, according to the press reports. In New York city the cable cars used to swing at full speed round the dangerous curve at Broadway and Fourteenth street, and so many accidents occurred that the place became known as the "Dead Man's Curve." Within two weeks I have read of four trolley accidents, in one or

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<sup>1</sup> The Philadelphia Press of August 12, 1899, in an editorial on the Bridgeport disaster, brings out clearly the facts that very little care is taken by many companies in the selection of motormen, and that the ill treatment of the men is a source of great danger to the public, even when the men are competent. Part of the article is as follows (*italics mine*):

"The story of Motorman Hamilton, who guided the trolley car which went over a trestle near Bridgeport, Conn., last Sunday, killing nearly thirty people, will be a reminder to the public how completely its safety is in the hands of the motorman and how much his competency depends upon the way he is treated by his employers. It is due to the millions of people who patronize trolley cars every day and who place their lives in the hands of the employees of the trolley companies to know what precautions are taken in the choice and care of motormen and conductors to insure safety for life and limb.

"The line on which the disaster occurred is over fourteen miles long, making a round trip of nearly thirty miles. Last Sunday morning Motorman Hamilton breakfasted at 7.15 A. M., and then reported for duty. At 8.15 he started out on his first round trip from Bridgeport, returned and at 11.15 started on his second round trip, getting back to Bridgeport at 2.40 P. M., having lost twenty-five minutes from some cause on his second trip. *He had then seen six hours and thirty-five minutes of continuous service and was tired and hungry. He asked to be allowed time to rest and eat his dinner, but the motorman who should have relieved him was not at hand and the car starter told Motorman Hamilton that he could not be allowed any stop for dinner but must start at once on another trip, demanding at least three hours more of steady work.* He obeyed orders and took his car out on the fatal trip which sent nearly thirty people into eternity.

"The trestle from which the car fell was probably not constructed substantially enuf for the work it was called upon to do. There were also no guard rails, and the depression or "sounce," just before the bridge was reached had doubtless much to do with derailing the car. But probably all these factors together might not have been enuf to cause the disaster had not Motorman Hamilton been compelled to go without his dinner. *He was in bad humor, undoubtedly, and weak from lack of food and was in just the condition of mind when even the most careful workman loses his caution and feels inclined to disregard strict regulations.* The disaster occurred at 5.15 P. M., and it was then ten hours since Motorman Hamilton had sat down to his breakfast. With no food in the interval to sustain him it is easy to imagine in what condition he was. And yet the official of the trolley company took the risk of compelling him to guide a car freighted with human life over a road part of which is now admitted to have been faultily constructed.

"The public does not know how many risks it is subjected to from this lack of care of employees by their employers. It is only when a disaster—it would be ludicrous to call it an accident—occurs that the public is let into the secret of the risks taken. A few years ago a railroad collision occurred in Ohio in which a number of lives were sacrificed, and during the inquest it was made known that *the engineer of the train whose carelessness caused the collision had been compelled to be on duty for forty-eight hours without sleep and was worn out mentally and physically, and in no condition to perform his duty promptly and efficiently.* The same disregard of employees' condition has been the cause of other disasters while many more have been escaped by a fortunate chance."

which over twenty people were killed and in another thirty persons were injured. The companies, as a rule, do not show much anxiety to report these matters. Laws and ordinances were passed requiring the cars to be furnished with fenders, but the companies have stubbornly refused to fulfil the spirit and purpose of the law, and in some cases, as in Philadelphia, resisted even the letter of it until fined for disobedience. Most of the fenders in use in our eastern cities run four to twelve inches above the level of the road, and some have iron fronts, that would break a man's leg like a splinter. If a child is on the track, the fender knocks it down, probably breaking its leg, passes above it and leaves the car wheels to do the rest. *Cushioned* fenders, running *close to the track*, are necessary for safety. In Buda-Pesth the cars have fenders that will push a baby from the track without injuring it. But it will need work to get efficient fenders here. The companies care little for safety unless it will save them more money than it costs. A few years ago in Philadelphia a man presented a safety attachment for street cars. On trial with stuffed arms, legs, heads and bodies, it was found in every instance that they were rolled from the track uninjured. The presidents of the street car companies met to discuss the advisability of adopting the new invention. "What will it cost?" they asked. "Fifty dollars a car," was the answer. The presidents ciphered up the total costs, compared it with the damages they had been paying for accidents, concluded it was cheaper to run over people and pay for it, and decided they would not protect the cars with the safety fender.<sup>1</sup>

#### DISCRIMINATION

7. *Unjust Discrimination* is an evil natural to monopoly in private control. Whether it be a street railway, an electric light plant, a telegraph or telephone system, a railroad or a department of the government, if the control is in private interest, unjust discrimination is almost sure to result.

It is one of the chief counts in the indictment of the railroads and the street railways that they are by no means free from this taint. I know a ward heeler in one of our eastern cities who has all the passes or free tickets for street cars he cares to use or give away to his friends or vassals. In Kansas City the investigation of the Missouri Labor Bureau developed the fact that the street railways were lavish with free passes among city officials. The city clerk acted as the railway's distributor-in-chief in the City Hall, and in the Common Council the sergeant-at-arms at-

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<sup>1</sup>The story comes to me from a source I have no reason to question, and it is exactly in line with the well known conduct of the companies in respect to safety fenders.



tended to the matter. One city legislator, Mr. Tiernan, promptly returned the pass laid on his desk, but the Bureau failed to discover any other refusals to accept the "delicate advance."<sup>1</sup>

Water, gas, electric light and telephone service are frequently given free of charge to men of position and influence, who are much better able to pay than the mass of consumers, who have to pay for the privileges of the favorites of monopoly in addition to their own. I could mention names, but I do not wish to hurt anybody's feelings, and the reader can discover examples enough for himself if he will inquire with due diligence and sagacity. It is the system and not the individual that merits the severest condemnation. Yet it must be remembered that every public-spirited man who refuses a proffered dead-head service is helping to break down the system and develop a truer civic conscience, while one who accepts such service is helping to fasten the system upon us and deaden the consciences of his fellows.<sup>2</sup>

Inequitable treatment of consumers, or favoring some persons and places at the expense of others, is not the only form of unjust discrimination of which the private monopolies are guilty. The grand discrimination is between the mass of consumers, or the common people, on the one hand, and the monopolists on the other. The exorbitant rates and profits and excessive capitalizations by which the monopolists seek their own advantage at the expense of others constitute in themselves a most grievous form of discrimination. The fundamental aim and purpose of private monopoly is unjust discrimination.

#### FRAUD AND CORRUPTION.

8. *Fraud and Corruption* are among the most prolific, and are quite the most deplorable, of all the results of private monopoly. As much as the debasement of individual character and the degradation of government are worse than any mere

<sup>1</sup> Bureau of Labor Statistics, Mo., 1896, p. 57. The Commission, while speaking of these passes, says they cannot of themselves account for the 30-year franchise, extremely low assessments, neglect to compel payment of taxes and the shutting of eyes to false car reports. The "extraordinary indulgence" shown the street railways is due to the "fact that they wield a tremendous political power" thru the shrewd lawyers and political managers in their employ, and the combined effects of their various methods of influence and mastery.

<sup>2</sup> For an account of the Western Union's complicated discriminations against persons, classes, newspapers and places, see *The Arena*, Vol. 16, p. 70, et seq. For criticizing the W. U., or other similar weighty reason, newspapers have been denied the service necessary to their success, and in some cases newspaper enterprises have been killed by W. U. discrimination. Even the Government's business, tho required by law to be sent ahead of everything else, has to wait if a commercial message wants the wire, etc., etc.

For a discussion of the railroad discriminations which have built so many fortunes and formed the foundation for so many successful trusts and combines, see "The Railway Problem," by A. B. Stickney, and Lloyd's "Wealth against the Commonwealth." See section 8; and section 9 last note. The subject will be treated in a future number of the Equity Series on Transportation.



matter of property, so much are the frauds and corruptions of monopoly worse than its monetary effects. In a sense, exorbitant rates and profits constitute in themselves a fraud upon the public, and in a large proportion of cases excessive charges and extravagant profits are rendered possible only by frauds of overcapitalization, false accounting, manipulation of stock, unlawful agreement, etc., or by corruption of a legislative body to secure a favorable franchise or other privilege, or of administrative officers to prevent the enforcement of the laws. Fraud and corruption lay the foundation for extortion, and extortion supplies the means for new frauds and corruptions, which open the way for further extortions, and so the unconscionable game goes on. The subject cannot be dwelt upon at the length its importance suggests, but a few details and concrete examples will be given to show what the private monopolies are capable of.

Some of the common corporate frauds are inflated construction contracts with directors or other inside parties, or with construction companies owned by them; exorbitant salaries, false commissions, "legal expenses," legislative and advertising expenses; false statements, doctored accounts, suppression of important facts, perjured returns to tax commissioners and other public officers; seesawing traffic or dividends, paying unearned dividends or withholding dividends earned, and other methods of manipulating stock values, so as to buy it in at bottom prices and sell it again at high prices; inflating records of value by adding together all past expenditures with no deductions for depreciation and extinction of past possessions obtained by such expenditures, large increase of securities on the consolidation of companies, issuing fictitious dividends, issuing valuable stock to stockholders at par, or otherwise watering securities or inflating capitalization; distributing stock among influential people: furnishing free light, transportation, etc., to men of wealth and position; bribing councils and legislators to secure franchise privileges or to prevent others from obtaining grants; scheming to wreck and capture public plants or rival private plants, corrupting officers to prevent the enforcement of the law or performance of duty; "bulldozing" employes to vote for corporate agents and vassals for councilmen, aldermen, legislators, etc.; furnishing too few cars, poor quality or overpressure of gas, undercurrent of electricity and other tricks of traffic; working on public opinion undercover thru the control of newspapers and institutions of learning; stealing inventions, or buying and suppressing them; ruining opponents by expensive litigation; making "ring" contracts above reasonable market rates, or "con-

spiracy" contracts to secure unreasonable rebates and advantages, guaranteeing enormous profits on leased or rented properties, etc.

Governor Hazen S. Pingree, of Michigan, while Mayor of Detroit, discovered that the Citizens' Street Railway Company of that city "literally owned the Council, body and soul."<sup>1</sup> They would pay \$3000 for a member,<sup>2</sup> and even made an actual offer of \$75,000 to buy the Mayor himself.<sup>3</sup> The Governor says: "My experience in fighting monopolistic corporations and endeavoring to save the people some of their rights as against their greed has convinced me that the corporations are responsible for nearly all the thieving and boodling with which our cities suffer."<sup>4</sup> The bribe does not always take a money form. Mayor Pingree was offered a trip around the world by the agent of a certain company if he would refrain from vetoing a specified franchise.

Speaking of the situation in Cleveland, Dr. Hopkins says: "When we approach the question of corruption in the award of franchises, it must be admitted that the system has thus far put an immense premium upon all sorts of bribery and corruption. The street railway interest has been all powerful in the control of political machines. It has not only secured, apparently for the mere asking, the most valuable privileges which the City Council could bestow, it has also escaped the performance of many obligations which the state has compelled the Council to make a condition of its grants. And it has prevented the enforcement of nearly every law which it has not cared to obey."<sup>5</sup>

The Broadway Surface franchise was secured by bribing nearly the whole Board of Aldermen. The "Cable Railway Company" offered the city \$1,000,000 bonus above the compensation required by statute, but the franchise was given to the "Broadway Surface Railroad Company" without compensation beyond the statute minimum, the Aldermen overriding the Mayor's veto to do it. Almost the entire Board of Aldermen and the officers of the company were indicted for corruption, and it was shown that in bribes of \$20,000 *per Alderman* and something for go-betweens the franchise had cost the Surface Company just half what the Cable Company had offered to pay *the city* for it.<sup>6</sup> When Toronto wished to relet its street railways on terms advantageous to the city and called for bids, New York capitalists who went to look at the situation laughed at the idea of paying part of the earnings to the city. "They had been accustomed, so they informed one of the committee, to pay something to the Aldermen, but nothing to the municipality."<sup>7</sup>

<sup>1</sup> Facts and Opinions, by Hazen S. Pingree, p. 31.

<sup>2</sup> *Ibid.*, p. 30.

<sup>3</sup> *Ibid.*, pp. 86, 122.

<sup>4</sup> *Ibid.*, p. 24.

<sup>5</sup> "St. Ry. Prob. in Cleveland." Amer. Econ. Ass'n., 1896, pp. 315, 316.

<sup>6</sup> Final Rep. Com. on Rds. relative to B'y. Surf. Rd. Co., Senate Doc. No. 79, 1886; *People vs. O'Brien*, 111 N. Y. 1. Dr. Max West in *Municipal Monopolies*, pp. 376, 377.

<sup>7</sup> W. D. Gregory in *The Outlook*, Feb. 5, 1898.

Philadelphia has had ample experience with railway morals and traction politics from the open purchase of the Union Passenger charter, in 1864, to the "Suburban Trolley Grab" of 1894. The former was bought by the liberal distribution of options on stock among the members of the Pennsylvania Legislature. The latter was an ordinance framed in Councils to give 100 miles of street in a suburban district with absolutely no return to the city, and not even an agreement on the part of the company to build roads in the locations granted. The press and the people stormed and vehemently charged the Councils with corruption, but the measure passed by more than a three-fifths vote. The Mayor's veto, however was allowed to stand, but the traction mastery was clearly indicated in the outcome. "Every newspaper of repute in the city, regardless of party, had denounced the 'Grab,' and as the annual municipal election approached at which one-half the Common Councilmen and one-third of the Select Councilmen were to be chosen, the papers demanded the defeat of every man who had voted for the 'Traction Grab Bill.' Lists of those who voted for the bill were published in all the papers, and their respective parties were exhorted not to renominate them. But the political machine responded to other forces than those of public opinion. The terms of seven Select Councilmen who voted for the bill expired. All but one were renominated, and all nominated were re-elected. In the Common Council the terms of forty-seven supporters of the 'Traction Grab' expired. Thirty-six were renominated and thirty-five re-elected. The net result of the agitation of a united press and a long and vigorous reform campaign in behalf of honorable candidates was the election of one reform Councilman. A more remarkable assertion of the control of a municipality by a political machine identified with the interests of a railway company it would be hard to find."<sup>8</sup>

The Philadelphia press, pulpit and platform have continually proclaimed in recent years, practically unchallenged, that a considerable number of Councilmen are in the pay of the street railways and other great corporations.<sup>9</sup>

The "Railway Boss Act" of 1868, which practically gave Philadelphia into the hands of the street railways; the "Gas Ring,"<sup>10</sup> in the seventies, which owed much of its power to the ownership of one of the principal railways of the city, and the "Motor Bill" of 1887 are further illustrations of the political methods of Philadelphia street car companies. The passage of the Motor bill, giving extraordinary powers to motor companies was severely denounced by the press and by the people in mass meeting.<sup>11</sup> The companies yielded a

<sup>8</sup> S't. R'y. System of Phila., 1897, by Prof. Speirs of Drexel Institute, p. 98.

<sup>9</sup> Ibid

<sup>10</sup> A full description of the famous "Gas Ring" of Philadelphia is easily accessible in Vol. II of Bryce's "American Commonwealth," so it need not be dwelt upon here.

<sup>11</sup> Prof. Speirs recounts a part of what occurred in 1887 as follows:

"Mr. H. L. Carson, the distinguished historian of the Supreme Court,

little and had the law modified somewhat, but their political power remained undiminished, as subsequent events already described have clearly shown.

A street railway financier, who offered to build extensive lines in Chicago with a 3-cent fare and a good bonus, was told by members of the City Council that these items were unimportant. The vital condition was that he must pay \$50,000 to the Aldermen at the start and \$250,000 when he secured his franchise.<sup>12</sup> In his book "If Christ Came to Chicago" Mr. Stead estimates that, on an average, franchises worth \$5,000,000 are annually given away in Chicago to those who best understand how to give the members of the city government the proper encouragement. It is matter of common knowledge in Chicago that the street railway companies spent vast sums in getting the Legislature of 1897 to pass the infamous Allen bill permitting the grant of 50-year franchises.

Here is a legislative investigation of the West End Street Railway Company of Boston in 1890 (House Document 585). The committee found that the West End had, in one year, paid, or promised, the following sums to influence legislation:

To lobbyists .....	\$22,000
To an attorney for services, influence, etc., in procuring legislation..	10,000
To another, ditto .....	500
For dinners to members of Legislature at the Algonquin Club.....	1,922
For carriages for said members.....	584
To newspapers for printing speeches, arguments, etc., gotten up by West End .....	7,500
	<hr/> \$42,506

Besides this, the committee found that "large sums" had been paid to other petitioners to withdraw. It is altogether improbable that the committee came within hailing distance of all the expenditures in the case, and perhaps the most vicious of them escaped the light; but enough was discovered to give us a clue to some of the items in the West End's overgrown expense account.

The electric light companies are not far behind the trolleys when the exigencies of their situation demand political action. Indeed, the two monopolies usually aid each other, and are often controlled by the same men. We have already seen how they controlled the Philadelphia Councils, packed the investigating committee and "gutted" the Edison company to prevent the city from getting its light at a reasonable rate.

Electrical politics constitute the reverse side of the shield on whose front we have found Extortion. The companies are obliged to give due attention to politics in order to keep their right to ob-

denounced the act as 'an example of reckless and arbitrary power outgrowing all the bounds of decency and restraint.' The conservative Public Ledger says of the bill: 'It is wrong in policy, bad in principle, a trick and a fraud.' And again the Ledger explains the public hostility to the company by saying that it is due to 'the breaking of their bargains with the city, their pretence of abiding by the decisions of the courts of law, with their attempt to circumvent the courts by covered up and tricky proceedings in the Legislature, and their defiant contempt of public rights.'

<sup>12</sup> Statement by Prof. Bemis to whom the said financier gave the facts.

tain an exorbitant profit on light, and they are compelled to make large profits on light in order to give due attention to politics. They begin usually by bribing the Councils to get their franchises. Then they have to keep on bribing to prevent the granting of rival franchises and measures looking to the reduction of prices, and all other legislation injurious to their interests. To secure immunity from interference with their monopolistic right to overcharge, and to intrench themselves in the law, they put their money and influence into politics, robbing the public with one hand and with the other bestowing a part of the booty on the officers of the law to keep them from stopping the game. This is well known to be the situation in Boston, New York, Brooklyn, Philadelphia, Chicago, Minneapolis and other large cities. In Northampton, Mass., it was found that all the city government, from the Mayor down, were holders of stock in the electric lighting company. A member of Council in Paris, Ill., says: "The light companies are composed of sharp, shrewd men. Their stock is distributed where it will do the most good. It was observed that the company took special interest in city elections. Men who never seemed to care who was made congressman, governor or president, would spend their time and money to elect a man of no credit or standing in the community. The question was, 'Are you for the light company?'"

One of the Aegis investigators questioned nearly every large city in the United States upon this point, and a great majority replied that the electric light companies are in politics, and some said that the companies own and run the city. Mayor Weir, of Lincoln, Neb., wrote: "The electric companies are in politics in every sense of the word. They attempt to run our city politics, and usually succeed." Similar words came from the officials of Milwaukee, Kansas City, Sacramento and many other cities. Electrified politics are not a success for the people; electricity is undoubtedly beneficial to the body politic when properly administered, but it will not do to leave the treatment to unprincipled quacks, who care nothing for the health of the patient, if they can only get his money.

Public plants have sometimes been crippled and captured by the scheming of private companies. Michigan City built a public electric light plant in 1886, with 84 arcs, for \$7500. During the first three years the cost per arc was \$43. Then the Electric Street Railway Company wished to buy the plant. The company had backing in the city government, but the opposition was strong. The result was that the reported cost mysteriously jumped to \$80 per arc, and the plant was sold to the Electric Street Railway Company for \$2,500, the company agreeing to furnish the city with light at a cost not to exceed \$75 per arc.

In Portland, Oregon, also, the electric light company had sufficient influence in the city council to force the sale of the municipal plant in East Portland when it became a part of the city of Portland.



and the Mayor says they are now paying two prices for electric light, with little hope of deliverance.

A fraud of a similar nature produced the lease of the Philadelphia Gas Works. The works were paid for and doing well, furnishing \$1 gas and making a profit above all expenses, depreciation and interest on the value of the plant, if the value of the free gas furnished the city is included, and could have supplied good gas at 75 cents if Councils would have authorized proper repairs and improvements. Under the hypnotic influence of the monopolists Councils refused to do this, and purposely withheld not only improvements, but needed repairs, in order to disparage the works in every possible way. The people understood the situation and were overwhelmingly against the lease.<sup>13</sup> But the attorneys and lobbyists of the monopolists had more influence in the Councils than the people, and "despite the public protests, despite the public indignation and despite the very much better offers of competing companies, the United Gas Improvement Company, controlled, as it is, by those who have already secured the street railway, electric lighting and gasoline franchises and privileges, was able to carry the day."<sup>14</sup>

Some time ago a professor in a prominent Pennsylvania University was given to understand that if he would give an opinion favorable to the lease or sale of the water works of his city, his opinion would be worth fully \$25,000, and he says that prices have risen since then.<sup>15</sup>

One might expect the water business to be free of taint, but it is not so,<sup>16</sup> and the reasons are quite clear when you come to think of it. Suppose a water company is seeking a franchise, and finds that the rates it favors will bring in \$10,000 or \$20,000 more than those proposed by the City Council. This difference for even one year of a twenty year franchise, judiciously distributed among prominent councilmen, or handed to the leader of the dominant party in the Council, may mean a gain to the company of \$190,000 to \$380,000 during the life of the franchise.

The Governor of a great state was offered 20,000 shares on option, without cash down, if he would sign a certain franchise measure, which he was told if signed would probably raise the value of the said shares from \$1,400,000 to \$2,000,000, yielding him \$600,000 clear profit. He did not sign the bill, but his successor did, and the rise of value was even greater than had been predicted.<sup>17</sup>

<sup>13</sup> See full statement by Prof. Bemis in *Munic. Monops.*, pp. 602, et seq.

<sup>14</sup> The Hon. Clinton Rogers Woodruff, Sec. Municipal League of Philadelphia and of the Natl. Munic. League, and member of the Pa. Legislature. in *American Journal of Sociology*, Mar., 1898.

<sup>15</sup> Statement of Prof. Bemis, *Munic. Monops.*, p. 656.

<sup>16</sup> See M. N. Baker's strong words in *Municipal Monopolies*, p. 48.

<sup>17</sup> Prof. Bemis in *Municipal Monopolies*, p. 657:

I am told by the Hon. John Wanamaker that while he was Postmaster General \$1,000,000 was offered if he would withdraw the La. Lottery Bill, and another million, coming from Western Union sources, felt its way among those close about him to ascertain if it would do to offer itself for the withdrawal of the Postmaster General's bill for a Postal Telegraph. In

In an address<sup>18</sup> to the Ohio Gas Light Association, Mr. Doherty, of the Columbus Gas Company, said: "Keep the newspapers on your staff, also the city authorities." He proceeded to describe a plan for giving shares of stock to the managers and proprietors of newspapers on note at less interest than the earning capacity of the stock, and with the privilege of paying off the note at any time, or of giving up the stock, by endorsement of which the note was secured, if they preferred to do that. In other words, the newspaper man makes no outlay, takes no risks, and if the stock pays good dividends, or rises in value, he is a gainer, wherefore he will feel an interest to work for the success of the company. The plan being made clear, Mr. Doherty says, "To be brief, it should be our business to-day to keep the stock of our companies distributed among those who are in a position to promote the welfare of our business."

In the Cleveland gas case it was in evidence that editors of leading papers and other influential people were supplied with free gas, and it was admitted that \$24,000, which was charged to "insurance and depreciation" (in 1890 and 1891, when the entrance of a competing gas company was being defeated in Council), did not go to those purposes at all, but to expenses, the nature of which the secretary-treasurer could not remember, and for which he had no vouchers or written memoranda, altho the expenditure of every cent for other purposes was plainly accounted for in his books.

A high authority in Boston gas negotiations said in 1897, "The

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a speech at Williams Grove, Pa., Sept., 1898, Mr. Wanamaker spoke of the relations of the corporations and the Quay machine in the following terms: "The principal allies and partners of the machine are the corporations. \* \* \* The corporation employees of the State are controlled for Quay's use. \* \* \* The steam railroads of the State employ 85,117 men, and pay them annually in wages \$49,400,000. \* \* The great street railways of the State, which have received valuable legislative concessions for nothing, give the machine loyal support with 12,079 employees, who are paid in salaries \$6,920,692 every year. That monopoly of monopolies, the Standard Oil Company, pays annually \$2,500,000 to its 3,000 employees who are taught fidelity to Senator Quay's machine. The Bethlehem Iron Works, whose armor plates are sold to the Government for nearly double the contract price offered to foreign countries, influence their employees to such an extent that, in the city of Bethlehem, it has been found difficult to get men to stand as anti-Quay delegates. The thousands of working men of the Carnegie Iron Works, it is said, are marched to the polls under the supervision of superintendents and foremen, and voted for Quay candidates under penalty of losing their jobs. The great express companies, who furnish franks to machine followers, one of which is bossed by Senator Platt, with their thousands of men, can be counted on for great service to the machine. The telegraph companies, whose State officials can, it is said, be found at the inner Quay councils, with the thousands of employees distributed at every important point throughout the State, and before whom a large share of all-important news must pass, is one of the most dangerous parts of the Quay machine. The interests of the corporations and those of the masses have been diverging for many years, until now what is for the people's good will not suit the corporations, and what will seemingly satisfy the corporations is no longer safe to the people. \* \* \* Capital with its manifold possibilities for good in itself, becomes an agency of wrong and calamity when harnessed with favored legislation. Unscrupulous Pennsylvania corporations have been willing to purchase advantageous legislation and dishonest political leaders have made a business of selling it to them. \* \* \* The Quay machine in Pennsylvania \* \* deals exclusively in legislative privileges, and demands its price, and the corporations are its patrons."

<sup>18</sup> At Cincinnati, Mar. 18, 1896 (Progressive Age, April 1, 1896).

Massachusetts Pipe Line's mongrel charter, procured from the 1896 Legislature, cost about \$500,000."<sup>19</sup>

But the most remarkable of all gas frauds and corruptions, in Massachusetts, at least, were those unearthed in Boston a few years ago by a legislative investigation started by the Hon. Nathan Mathews, who was Mayor of the city. It appears that a Delaware man, by the name of J. Edward Addicks (since prominent in politics) obtained a franchise in Massachusetts for the "Bay State Gas Company" (which was practically himself), with a right to issue \$500,000 of stock, and no more. He then, under the laws of Pennsylvania, organized the "Beacon Construction Company" (which was also practically himself, as he owned 14,980 of 15,000 shares). The Bay State secured from the city the privilege of laying its pipes thru the streets on condition that it would lay pipes in every street where the Boston Gas Light Company had pipes. The Bay State Company (Addicks) then made a contract with the Beacon Company (Addicks) by which the Beacon Company was to build works and lay pipes as specified, and the Bay State was to pay the Beacon \$5,000,000, consisting of the \$500,000 in stock and a 4½ million 99 year bond.

Works were built and some pipes laid when the Boston Gas Company opened negotiations resulting in an agreement by which the Bay State Company was not to lay any more pipes, but was to manufacture gas and sell it to the Boston Company, which was to distribute it to the people.

When construction was arrested, the Beacon Company (Addicks) had expended about \$550,000 in building gas works and \$200,000 in laying pipes, or \$750,000 total, but the Bay State Gas Company (Addicks) had a meeting (1889) and accepted the said construction in full performance of the contract of the Beacon Construction Company (Addicks) and turned over the \$500,000 of stock and the \$4,500,000 bond in payment for \$750,000 worth of work, thereby capitalizing the Bay State at \$5,000,000 on a real value of \$750,000. The construction bond, with the acceptance of part construction as full performance, was a cover for the evasion of the Massachusetts law against fictitious capital, and a shrewd device for the concealment of enormous profits.

Under the compact between the Bay State Gas Company and the Boston Gas Company (which had been far the strongest company in the city) the Bay State, in 1892, made gas at 33 cents per thousand feet and sold it to the Boston Company at \$1 per thousand,<sup>20</sup>

<sup>19</sup> Thos. W. Lawson, till lately vice-president and director in several Boston companies, and the negotiator, as he says, "of the various settlements, deals and organizations consummated or attempted in the Boston gas field during the last three years," preceding the time of his writing in 1897. See Muncie, *Monops.*, p. 599.

<sup>20</sup> And now, a decade after the compact spoken of in the text, I find in the papers the following paragraph:

"J. Edward Addicks, the gas man of Delaware and other places, filed in the United States Court four bills in equity against the Boston Gas Light Company and allied companies, asking for an injunction restraining

which in turn sold it to the people at \$1.30 per thousand. This arrangement was a beautiful one thruout, for if the consumers asked the Gas Commissioners to reduce the price of gas, the Boston Company could say, "Why how in the world can you expect me to sell gas for less than \$1.30 when I have to pay \$1 per thousand for it under my contract?" And if it were complained that the Bay State's profits were 200 per cent. on the cost of production—90 per cent. on its entire stock—it could point the complainor to the fact that it had to pay interest on a \$4,500,000 bond.

The Boston Gas and three other companies combined with the Bay State to form what was known as the Boston Gas Syndicate, or Gas Trust.<sup>21</sup> The consolidation was completed in 1889, and the capitalization was \$17,000,000, or \$13,365,000 above the lawful capitalization of the companies involved—\$4,640,000 was excess of market value above par at the time of consolidation, about \$2,000,000 was excess of prices paid by the combine for stock of the component companies over and above the existing market values, and about \$7,000,000 was pure unadulterated water. The Boston Gas Company's stock (\$500 par) was selling in 1889 for \$900 a share, but the combine paid \$1200 a share for it in stock and bonds and cash. Roxbury stock (par \$100) was selling at \$190, and the Trust paid \$225, etc.

The five men chiefly concerned in this conspiracy against the Common law and the Corporation law of Massachusetts made large fortunes out of the transaction. The bond acted as a sort of conduit pipe to convey the profits collected from the people of Boston out of the state and away from the control of its laws into the treasury of a foreign corporation at a rate which would have made the total burden of the bond and its interest amount to nearly \$40,000,000, which the people of Boston were to pay substantially for nothing—almost wholly a monopoly tax under the concealment and protection of the fraudulent bond. And the Trust served to increase the profits available for abstraction. The profits went from \$450,000 to \$874,000, or about double (in 1892) what they were (in 1888) before the Trust got control, while the cost of manufacture

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the defendants from carrying out the contracts between them and the Massachusetts Pipe Line Company, under which the latter is to supply the former with all its gas for the next fifty years at twenty cents per 1,000 cubic feet. Mr. Addicks alleges that the contract is fraudulent and illegal, and asks that it be declared null and void."

Mr. Addicks is probably right about the character of the contract. He is an expert in such cases. The contract tends to shut out competition and the cost of gas may sink far below the agreed price during the life of the contract. Mr. Addicks sees very clearly that a contract to buy gas of the *Mass. Pipe Line* at 20 cents is fraudulent, but a contract to buy gas of his *Bay State Co.* at \$1 when it made the gas for 33 cents, was very good in his sight.

<sup>21</sup> The stocks of the companies were assigned to the Mercantile Trust Company of New York as security for the bonds and stock of the Bay State Gas Company of New Jersey, which were largely used in paying for the Boston stock. The Bay State bond was transferred by the Beacon Construction Company to the Bay State Gas Company of Delaware (another Addicks company) and the stock and bonds of the Delaware Company were also used in paying for Boston stock. All this was to get out from under the laws of Massachusetts so far as possible, and to get the bond into the hands of "third parties."



fell from above 40 cents to 33 cents. The Trust abolished the discounts that had been allowed, and thereby raised the average price 8 cents a thousand.

In one respect, however, it was not economical. It paid big salaries. In 1887 the aggregate salaries paid the presidents, treasurers and directors of the five companies was \$18,160; but in 1892 the amounts paid by the Trust for salaries for president, treasurer and directors were \$60,930, or more than three times as much for the single organization as for the five separate companies, and of this extravagant total \$25,000 was the salary of Mr. J. Edward Addicks, who spent his time in Philadelphia, Wilmington, Brooklyn and New York, and only came to Boston to testify that he didn't know anything about gas. The organizers even paid \$150,000 in pensions and gratuities to retiring officers of the Boston Gas Company, and had the impudence to *capitalize* the amount, as they did also \$350,000 "expenses of the Boston Gas Syndicate," including \$250,000 to the trustees for organizing the Trust.

The Bay State rented its fifteen miles of pipe to the Boston Gas Company at a rental which in two years paid back to the Bay State the whole \$200,000 which its pipe lines had cost. The Bay State also bought tar of the other four companies to the extent of \$29,000 in two years and sold it for \$49,000. The Trust bought coal of Addicks' Delaware Company at a uniform advance above the market price, adding \$33,700 to the operating cost of the Boston Gas Company alone. Anything to turn profits into the hands of the Delaware man and enamel the process.

In less than four years the Trust took from the people of Boston over \$2,000,000 in monopoly taxes above 8 per cent. on the lawful capitalization. It turned in false statements to state officers and swore to them. It broke its agreement with the city of Boston and never fulfilled the condition upon which it was permitted to lay its pipes in the city streets. It violated a dozen statutes of the state of Massachusetts, besides breaking the Common law into splinters. And when Nathan Mathews, the Mayor of Boston, sought to have the Syndicate investigated, there was a tremendous fight to keep the facts from the light. Even the Gas Commissioners were so under the thumb of the Trust that they tried to suppress some of the most vital facts in their possession.

The Bay State paid two lawyers in the Ring \$20,000 for "legal expenses" at the start, though there was no litigation at the start, nor any legitimate legal expenses beyond drawing a few papers—no legal expenses unless the expenses of obtaining the license from the Board of Aldermen could be called "legal."

The Bay State started with a pretence of competition, but with the intent to *capture*; they built their works in Dorchester and laid big mains into Boston. They ran a main up to the Roxbury works and then said: "Now, gentlemen, take your choice. If you want to go on with the gas business, go right on; but if you don't give up your business to us we'll parallel every foot of your pipes, and we will do the gas business, and you will perish."



Well, the Mayor brought out the facts before a committee of the Legislature, and demanded that the Bay State charter be forfeited and its assets distributed. And the Hon. George Fred. Williams quoted these memorable words from the United States Supreme Court in *Loan Association vs. Topeka*, 21 Wallace, 655: "If the charter granted, whether by special act or under general law, is used not for the public benefit, but for the public injury, it is not only the right but the duty of the Legislature to revoke that charter."

Seven of the committee signed a majority report against revocation. The report bears strong evidences of corporation bias and even denies that the Bay State bond was a fraud (p. 151), tho acknowledging that it was mostly fictitious—"a *dear bargain* to give this obligation of \$4,500,000 for the Bay State plant, costing not less than \$750,000 to \$1,000,000" (p. 148), "but who can say that they had not the legal right to enter into such a bargain, and who can take exception thereto? Certainly no one but the stockholders of the company or its creditors then existing; but there were no creditors, and the stockholders, at a legal meeting, afterwards ratified it." (p. 149.) According to these gentlemen the *public* appears to have no rights that corporations are bound to respect. A minority report, signed by six of the committee, states the case fairly and says: "We are of the opinion that the methods above shown of conducting the affairs of the Bay State Gas Company of Massachusetts, in evading the statutes of the Commonwealth provided for the very purpose of regulating the corporations organized under its laws, and protecting the public from the abuse of the privileges conferred upon such corporations, and particularly in the issuing, ratifying and paying interest upon said fictitious obligation at the rate of ninety per cent. of its entire net earnings, is sufficient reason for revoking the charter of said company, if the Legislature can devise no other means of annulling the said fictitious obligation." (p. 160.) Another committeeman made a little report of his own in which he said that "on giving up the note for \$4,500,000, which appears to be a fictitious note of no value," some arrangement should be reached by which the Company could go on. He did not think it necessary to take away the charter of the Bay State Company. The Legislature passed an act (ch. 474, 1893) revoking the said charter on Dec 1st, 1893, unless before that time the Bay State obligations for \$4,500,000 should be legally cancelled and discharged and surrendered to the Commissioner of Corporations. The act permitted the company to capitalize at the market value of its property as estimated by three Commissioners. The obnoxious obligation was cancelled and surrendered and the company was allowed to continue its career with a capitalization cut down from \$5,000,000 to \$2,000,000. Some of the most important portions of the proceedings were omitted from the official report of the investigation, and, most remarkable fact of all perhaps, Mayor Matthews the hero of the battle, went from the Mayoralty to the presidency of the Bay State Gas and its allies at a salary of \$25,000 a year.

The Bay State Gas transactions were a fraud from beginning to end; a fraud on the city, a fraud on the state, a fraud on the consumers, a fraud on other companies, a fraud on the Common Law, and they inoculated the Gas Commission and the government with the virus of disloyalty to the public interest.<sup>22</sup>

Only a small proportion of the frauds in the ocean of monopolistic corruption ever come to the surface, and those above mentioned are but a fraction of the cases that have come to light, but space will permit no more.<sup>23</sup>

#### DEFIANCE OF LAW.

9. *Defiance of Law and Justice* is a distinguishing characteristic of private monopoly. Everything that has been said in the eight preceding sections is in evidence under this head. The very *existence* of private monopoly is a violation of the fundamental principles of justice and constitutional law on which our institutions are based. (See Section 3.)

In Chicago the City Railway Company has not hesitated to deliberately smash up and completely destroy property of the General Railway Company during a dispute between the companies as to the right to use certain tracks.<sup>1</sup> A serious battle in the streets was narrowly escaped. During the great Railway Union strike in Chicago, according to the Chief of the Police Department in that city, and the opinion of Hon. Carroll D. Wright, expressed to several gentlemen in Boston, the railroads secured the appointment

<sup>22</sup> See Report of the Bay State Gas Trust, City Print, 1893; Mass. Gas Commission's Report, 1894, p. 4. In Wall Street the Bay State Gas episode is called "The Boston Skin Game," and the general situation is termed, the "Beans Mystery" (Progressive Age, Jan. 15, 1898, editorial).

<sup>23</sup> For the frauds of the Western Union Telegraph Co. see "The Telegraph Monopoly," Arena, Vol. 16, pp. 70, 73, discriminations; pp. 74, 81, control over newspapers and interference with the liberties of the press; pp. 186, 189, distribution of franks among Congressmen and Legislators, influencing legislation with money, and even aiding two attempts to steal the Presidency of the United States.

For Standard Oil morality, with its thefts, perjuries, bribes, assaults, conspiracies, destructions of property, attempts to ruin honest business men, and even whole classes of producers, fraudulent contracts with railroads and other violations of law, see Henry D. Lloyd's "Wealth against the Commonwealth," published by Harper. From the conspiracy to blow up a rival refinery and the plugging of the Independent Pipe Line in mid-country to the forced agreement by which a railway undertook to carry oil for the Standard at 10 cents a barrel, charge rival shippers 35 cents a barrel, and pay the Standard 25 cents out of each 35 thus collected from said rival shippers (Hauy vs. Cleveland & Marietta Rd. Co., 31 Fed. Rep. 689), the record of the Oil Monopoly is a record of fraud, violence and corruption.

For Railroad frauds see Lloyd's "Wealth against the Commonwealth;" Chas. Francis Adams' "Chapters of Erie;" Stickney's "Railway Problem," and Cowles' "A Gen'l Freight and Passenger Post." The statements in the latter book as to possible rates must be taken with some allowance but it contains many valuable facts as to railway methods. The question will be discussed in a future number of the Equity Series.

<sup>1</sup> Chicago Gen'l R'y vs. Chicago City R'y, Ill. Appellate Court, Oct. Term, 1895, p. 521; Municipal Monopolies, p. 532. (See Appendix H C. 2.)

of several thousand thieves, thugs and toughs from the city slums as special United States police or deputy marshals, and thru them the roads accomplisht the burning and destruction of a large number of cars, in order to accuse the strikers of violence and turn public sentiment against them. The roads afterward claimed damages, and made the city pay for the property they had themselves destroyed. (See Rep. Supt. Police, Chicago, Jan., 1895, p. 17.)

The ordinance under which the new railway in Detroit is operated requires 3-cent fares in the daytime. This new road is now controlled by the old company, the Detroit Citizens' Railway, the two roads having the same officers and the same power house. When the old company absorbed the new, the frequency of service on the new lines was much reduced. It was clear that the company was aiming at a practical nullification of the ordinance by driving passengers to the other roads. A great deal of complaint was made, and it was charged that the company was trying to ruin the new road and kill the progress of the low-fare movement by making it a financial failure in Detroit. The company denied this, but recently, when the franchises of the roads were to be valued preparatory to the proposed purchase by the city, the company's officers desired that the franchise terms of all the lines should be averaged, and the value calculated on the average earnings and the average term for the whole system. Professor Bemis, however, insisted on valuing the franchise of each road separately, and an official remarkt that that method would be very much against the interest of the company, *because the longest franchise term by far was on the new road, which they had been trying to ruin.*

In Cleveland, as we have seen, "The street railway interest," according to Dr. Hopkins, "has prevented the enforcement of nearly every law which it has not cared to obey." In Philadelphia, Boston, New York and Chicago the street railway interest is in the habit of having the law made to suit itself, but if it fails in this, it does not hesitate to defy or evade an inconvenient statute or ordinance. The Philadelphia companies refused to obey the fender laws until repeated fines compelled them to act, and then they fitted the cars with miserable, cheap, heavy, clumsy, dangerous evasions of the law. Similar episodes have occurred in other cities.

Perhaps the commonest breaches of the law by the great monopolies relate to taxation. In Cleveland the street railways reported for taxation \$1,869,000, or 1/14 of the capitalization, 1/6 of the claimed actual investment, and about 1/4 of the cost of duplication. The rule calls for 60 per cent. of actual values.<sup>2</sup>

In St. Louis the Missouri Bureau of Statistics found the street railways assest \$11 on each \$100 of value, while property in general was assest at more than \$50 on the hundred. Some private property was assest at 95 per cent. of its market value, while the St. Louis railways, with a market value of \$37,987,000, were assest only

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<sup>2</sup> Cleveland St. Rys., Hopkins, p. 376.

\$4,246,190. They are willing to pay interest and dividends on nearly nine times as much as they wished to pay taxes on. The Lindell system of street railways cost \$1,298,000, was capitalized at \$7,000,000 and assest at \$769,720. It paid over 4 per cent. interest and dividends on the whole capitalization, and 23 per cent. on actual investment, but was "so poor" it could only pay taxes on about a tenth of its market value. The People's Railway track was originally assest at \$15,000 a mile, but when the president of the People's Railway was appointed a member of the Board of Equalization, the assessment was reduced to \$9000 a mile. The president was willing to help the other companies also. In 1894, 186 miles of track were assest at \$2,142,650. But in 1895, with the People's president on the Board, 216 miles of track (or 30 more than in 1894) were assest at only \$1,718,930, or \$500,000 less than the year before. At this rate the growth of the city and increase of track will reduce the street railway taxes to zero.

The Union Depot Line had 54 miles in operation, according to its return to the City Register April, 1894, *34 miles*, according to its return to the *City Assessor*, June 1, 1894, and 76 miles, according to the survey of a competent civil engineer, November 5, 1894. Taking the company's own returns, the city's loss at the regular tax rate was \$2800, and on the engineer's report, adopted by the Missouri Labor Bureau as the true figure (which is just if care was taken to ascertain that the company did not build the additional miles between June and November); the city was cheated out of \$5880, or more, than half the tax due under the law.

Under the law the railways must pay \$25 tax on each car operated, and are subject to a fine of \$100 to \$200 for each unlicensed car used in carrying passengers within the city. In 1895 the railway officials returned sworn reports, giving the number of cars used as 714. An agent of the Bureau watcht the cars in use on the streets, took down the number of each and found 903 cars in use, indicating a fraud on the city of \$4725 license fees in one year. In June, 1896, the companies swore to 722 cars, but if you went to the Railway Advertising Company they would guarantee to put your advertisement in 926 cars running every day in St. Louis. At the time when the company was paying license tax on 714 cars and the Bureau found 903 in use, the assessor found that the companies possest 1430 cars, and the number reported to the Street Railway Journal was 1686, or  $5\frac{1}{2}$  per mile of track.<sup>3</sup> In Kansas City the agents of the Bureau counted 133 cars of certain lines in use March 7, 1896, but the sworn return of the general superintendent of the company for that day was only 88 cars. Every count that was made showed a similar discrepancy.<sup>3</sup> Perhaps the Kansas

<sup>3</sup> Report of Hon. Lee Meriwether, Labor Comm'r for the State of Mo., 1896, pp. 3, 4, 65-7, 29, 14-16. The railways absolutely refused to give the Labor Bureau the slightest assistance in its investigation. From start to finish every attempt to get information from railway officials was met with a rebuff. In order to do everything possible to avoid inaccuracies, the Commissioner sent a draft of his report to the railway officials for criticisms and suggestions, but they refused to make any beyond a few irrelevant and impudent remarks; they would say nothing at all about the facts, pp. 6-8.



City and St. Louis railways calculated on the same basis as the Philadelphia railways, which were discovered by the watchman of the Department of Public Works to be evading the law by changing the license from one car to another; a car going out of the city limits would meet a car coming into the city and give the latter its license, so that quite an economy of licenses was effected.

In Chicago the Labor Bureau (1896) found that the North Chicago Street Railway Company was assest only \$500,000, or 2 per cent. of its market value. The West Chicago Street Railway was assest at \$1,100,000, or 3 per cent. of its market value. The Special Committee of the Chicago Common Council (1898), with the Mayor at its head, discovered that the companies were operating lines in numerous locations for which the public records showed no grants whatever. The companies had simply helpt themselves to the streets. The committee called the attention of the railway officials to this and other important matters, and askt for explanations, but the Chicago City Railway neglected to answer the committee's questions, and "the North and West Chicago Companies, thru their president, Mr. Yerkes, peremptorily declined, by letter to the Mayor, to render the committee any assistance or recognition."<sup>4</sup>

In the Bay State Gas investigation, Mayor Matthews and Hon. George Fred. Williams enumerated a dozen laws which the evidence showed had been violated by the company. It takes a couple of pages in each report of the Massachusetts Gas Commission to recount the violations of law respecting the purity and candle power of gas.<sup>5</sup> In the Cleveland gas case of 1888 the company defied the ordinance reducing the gas rate from \$1.25 to \$1 per thousand until the city took the matter to the courts and got a decision sustaining the ordinance.<sup>6</sup> Resistance to laws and ordinances reducing gas, water, electric light, street railway and telephone rates has occurred in Detroit, Indianapolis, Des Moines and many other places—indeed, it is the common practice of the companies in most states to resist to the utmost until the position of the city or state has been establisht by expensive litigation, the object of resistance being to discourage, so far as possible, all exercise of the public power of regulating rates.<sup>7</sup>

Sometimes the companies nullify a reduction without open resistance. During proceedings for securing lower gas rates a few years ago, an official of one of the companies involved was heard to remark that he "did not care what they did with the rates if they only left the pressure alone."<sup>8</sup> The company could increase

<sup>4</sup> Report of Spec. Com., p. 16.

<sup>5</sup> See for example pp. 109-10, Rep. 1894; pp. 118 and 119, Rep. for 1895; pp. 153 and 154 Rep. for 1898.

<sup>6</sup> State vs. Cleveland Gas L. and Coke Co., 3 Oh. Cir. Crts., 251.

<sup>7</sup> In Detroit, when the railways refused to obey the law in respect to fares, Mayor Pingree laid the basis for a suit by offering the legal fare, and allowing himself to be ejected from the car for refusing to pay more than the legal rate. See cases cited in my chapter on "The Legal Aspects of Monopoly" in *Municipal Monopolies*, p. 425. Also, p. 185.

<sup>8</sup> This may help to explain what has long been known to be a fact, viz.:



the pressure and force enuf gas thru the meters to make the same total profit as before. Electric light companies also, unless closely watcht, can and do evade the law by manipulating current and candle power.

These companies play with the tax laws after the usual corporate manner. The Boston Electric Light Company reports \$2,552,000 assets to the Commissioners (1895), and is assest at \$710,900. Even the Edison (Boston) reports \$3,534,000 assets, and is assest at \$1,208,000; while the Worcester Electric reports \$349,270 assets, \$304,500 capitalization and \$253,300 assessment—over  $\frac{2}{3}$  instead of  $\frac{1}{3}$ , as in the other cases.

What a dainty plan it is for a little group of men (women are not yet sufficiently "developed," thank goodness) to pay in \$100,000 and vote themselves stock to the amount on its face of \$500,000! Or better still, to issue a million of stock and bonds, keep a good lot of it, give your friends some, and the legislators and councilmen some, sell the rest, build the works with a part of the money you get from the "bloomin' public" in this quiet way, spend another part to buy the sort of politics and laissez-faire administration your business needs and put the remainder in your pocket; then make some light, charge three or four times what it is worth, get a contract from your friends in power to light the city, turn in a small valuation to the assessors so as to make the expenses light, but roll up the capitalization so as to spread out big profits over a large surface and make them look thin and small to the stingy people who are apt to object to a man's making a few hundred per cent.—nice plan, isn't it? Almost as good as a bank robbery for getting hold of other people's funds. Almost as good for rapidity, and a great deal safer. And then if the people should wake up and attempt to take control you can put on an innocent look and tell them it's mean to ruin your trade, and if they insist

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that your gas bills are frequently as high or higher when you consume little and the gas is comparatively low in price as when you consume at the ordinary rate and gas is higher, i. e. your gas bills do not seem to bear any definite and ascertainable relation either to the price per thousand feet, or to the amount you consume. Take a few cases from the argument of Henry R. Legate at the State House in Boston a few years ago:

"In Cleveland, O., gas was reduced by the City Council from \$1 to 80 cents per thousand, but the gas bills grew larger instead of smaller. A citizen writes that for the six months from October to March, 1891-2, his bill was \$18.50 at \$1 per thousand, while from October to March, 1892-3, his bill was \$19.58 at 80 cents per thousand—the conditions being the same except that there was one less member in the family during the last six months.

"A similar comparison from H. T. Illickok, of Brooklyn, N. Y. (where the companies were compelled to reduce their charge from \$1.50 to \$1.25) gives six months' gas at \$1.50, \$18.45, and the same six months the following year at \$1.25, \$21.88. The conditions were just the same, but the lower the prices per thousand the higher the bills every month. Reduction in gas don't reduce."

The United States Superintendent of Gas in Washington reports that "the cause of large bills is excessive pressure in the street pipes."

In 1892, Henry M. Cross made complaint at the State House in Boston, as counsel for the United States Hotel, the Quincy House and a large number of other gas consumers, whose prices had been advanced 30 per cent. or more by the Boston Gas Company, as appeared from the increased size of their bills, without change of conditions. Bills of the United States Hotel, for example, showed \$492 for January of one year, \$592 for January of the next year, and \$713 for the same month of the third year (1892), with "no addition to the number of lights."

they at least ought to buy up your plant at the entire amount of your capitalization.

But be careful, else some eminent and respectable citizens may organize a new company, with the "boss" of one of the leading parties at its head, and a number of prominent business men, editors and officials let in on the ground floor to control public opinion and the councils, and incidentally make a profit for themselves thru the rising value of the new stock. The new company will promise lower rates and vigorous competition; will get a franchise—pay for it in cash if stock and persuasion wont do; erect a few poles to hold the franchise, and then make overtures to you of the old company. It is wasteful and ungentlemanly to fight, so you sell out or "consolidate" at two to twenty times the real value of your property, and the reorganized company goes to work with \$500,000 of bonds, which represent the actual value of the plant, and \$2,500,000 of stock, which represent the right of way in the councils and the influences and consciences of ten or a dozen prominent citizens purchast by the company plus the greed and impudence of the corporators.

Law and justice! They are secondary considerations in the electric light business, or the gas, water, telephone or street railway business, or the business of any powerful monopoly. There is something much more worthy of its regard, and that is the almighty dollar.\*

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\* Electric companies do not hesitate to bring pressure to bear to induce manufacturers of electrical machinery to boycott municipal undertakings. (Progressive Age, Aug., 1897, reporting a meeting of the Northwestern Electric Association, which unanimously and enthusiastically adopted a proposal to confer with manufacturers of electrical apparatus, secure their willingness to be guided by the wishes of the Association, and keep them, whenever the Association thought best, from bidding on proposed municipal plants.)

The Wire Nail Trust of 1895 compelled manufacturers of wire nail machines to break contracts with independent nail makers, recall machines delivered to the carrier under such contracts, and even wreck machines that had been delivered to consignees. ("Legal Aspects of Monopoly," p. 469.)

The Telegraph Monopoly does not hesitate to break the laws of the United States as to the order of messages and the facilities to be given the weather service.

The Bell Telephone Company is believed to have defrauded the public by buying up and nursing the Berliner claim of priority till its own patent expired and then by bribery and collusion securing a new 17-year lease of patent monopoly under the B. claim. The charges were found true, and the new patent set aside by the U. S. Circuit Court, but the Supreme Court reversed the decision. (See my chap. on The Telephone in Municipal Monopolies, pp. 326-7 and U. S. vs. Amer. Bell Tel. Co., 167 U. S., 224.)

The railroads have "defiantly" gone on buying hundreds of thousands of acres of coal land in Pennsylvania, in spite of the express prohibition in the Constitution of that State, and neither the Legislature nor the Supreme Court can be got to interfere, for the railroads own them both. (Lloyd's "Wealth against the Commonwealth," pp. 18-19, 181, citing Congressional Investigations and "Leading Cases Simplified," by J. D. Lawson, who warns the student of railroad law "not to pay much heed to the decisions of the Supreme Court of Pennsylvania—at least during the last ten or fifteen years. The Pa. Rd. appears to run that tribunal with the same success that it does its own trains.") With equal success, but less openly the railroads defy the laws of the United States against discrimination, and the decisions of the Interstate Commerce Commission. (Lloyd, p. 19, and "The Railway Problem," p. 207, by A. B. Stickney, then Chairman of the Board of Directors, and now President, of a great railway.) The Interstate Commerce Law provides for imprisonment, and the violations of the law are numberless, but the only conviction had under it was that of a shipper for discriminating against a railroad. In respect to the Interstate Law, Stickney quotes a railway president as saying that "If all who

have offended against the law were convicted, there would not be jails enuf in the U. S. to hold them."

Mr. Byron W. Holt, a high authority on the monopolistic combinations called trusts, writes as follows about the Sugar Trust:

"The Sugar Trust has but little respect for law—except the special laws which keep out foreign refined sugars. It has repeatedly concealed its books from investigating committees and refused to give information concerning its stockholders, the use made of its funds, etc. It refused to comply with census laws and to give information to the Census Department in 1890. After the Attorney-General had tried for several years to get the information required, he, acting on the advice of the Department, abandoned the case because it was then so late that the information would be worthless if obtained. Hence the 1890 census is worthless as regards an industry whose annual product is valued at over \$200,000,000. It is unlikely that these trust officials risk imprisonment and go to so much trouble and expense to preserve unimportant secrets." (Review of Reviews, Vol. XIX, p. 685.)

#### A GREAT LAW BREAKER.

The Standard Oil Monopoly is well-known to be one of the arch-offenders of the age, an utterly conscienceless law-breaker and criminal. (See The Rice Case, 31 Fed. Reporter, 689; Investigations, Congress, 1872, 1888; Pa. Legis., 1872; N. Y. Legis., 1873, "Erie Invest.;" 1879, "Hepburn Report;" 1883, "Corners;" 1888, "Trusts;" Ohio House, 1879; Lloyds "Wealth against the Commonwealth.") It is of great importance to the student of municipal affairs to have some knowledge of those all-pervading monopolies, the railroads, telegraph, oil trust, etc., that are such powerful factors in the business and political life of every city. The Standard Oil is of special interest because of its tendency to own and control the gas and electric light companies, and even the street railways, of some of our leading cities—a tendency which seems to amount to a systematic policy of expansion toward complete monopolistic empire in the directions indicated. The prospect of bringing all the public utilities of our giant cities under the control of the Czar of the Oil Trust may be alluring to the Czar, but will not be pleasing to the people; yet the operations of the Trust in Boston, Philadelphia and Chicago indicate that such may be the plan of the oil monopolists. Whether this be true or not, the Trust is already a sufficiently vital factor in municipal affairs to make a study of its character indispensable in this connection, and I therefore subjoin a few notes about some specimen points in its record.

In 1879, the Pres., Vice-Pres., Sec., Cashier and others—all the principal men of the oil combine—were indicted for criminal conspiracy, but could not even be got to give bail; the Supreme Court of Pa., by an unheard-of proceeding, interfered and hung up the indictments. (Lloyd, pp. 170, 180, 258.) Afterward (1885) three oil trustees and others were indicted at Buffalo for conspiracy to blow up a refinery regardless of life (pp. 247-8, 250, 252, 258.). They took legal advice before they acted to see what would be the liability under the criminal law of arranging an explosion (247). They afterward tried to make away with the man who knew the facts—the man the trust officers had deliberately hired to blow up the refinery (268). The jury found guilty all the defendants they were allowed to try (285), but the court rendered the verdict as to the millionaire trustees, taking the case away from the jury so far as the trustees were concerned (278), altho they were clearly involved, as the whole evidence showed (pp. 247, 253, 262, 284, etc.). The judge delayed sentencing those who were convicted, and at last fined them \$250 (287)—\$250 fine for blowing up a rival refinery—and 6 cents damages for breach of a hundred-thousand-dollar contract (196). Popular indignation was great, but by some mysterious influence that judge was nominated by both parties for the Supreme Bench, and will hold his seat till 1904 (p. 297).

The Oil Trust owns or controls gas companies in Chicago, Brooklyn, Columbus, Toledo and other cities (337, 339). In Toledo prices were fixed regardless of city ordinances, discriminating grievously between consumers (306); municipal ownership movement started (307); Trust subsidized the press and bought up the only morning paper, an able advocate of the movement, and turned its guns on the city gas plant (317); distributed pamphlets, and got advertisements in N. Y. and London papers to destroy the credit of the city and prevent sale of the bonds (318-9); indictment of the Trust agents for criminal libel in relation to the city's gas affairs (324); the war with the Trust cost Toledo \$1,000,000 (p. 336, and see below). During the struggle the Trust got up a "big business men's protest" against public ownership, which proved to have been largely signed by men whose names could not be found in the directory (323).

In Columbus some gas consumers were made to pay twice, some three, and some even four times as much as their neighbors paid for like service (365). In 1891 the gas supply was shut up arbitrarily and suddenly in midwinter, and the people were informed that the company would supply no more gas till the City Council raised the price (natural gas) from 10 cents to 25 cents a thousand feet—an increase of 150 per cent. The gas had not failed, but the company had increased its stock from \$1,000,000 to \$1,750,000, and must have more money to pay dividends (365). Same thing



at Sidney, O. (366); and one of Toledo's main gas pipes disconnected in winter during the contest with the Trust (366). Independent pipe-line plugged during effort of Oil Trust to ruin the line (111); another pipe line cut and the oil set on fire (477-8). Independent well drillers' machinery blown up (154). Silencing newspapers by threatening to put a rival in the field (160). At Fostoria, Ohio, gas pipes torn up to ruin a manufacturer who wished to hold the oil and gas people to their contract. The laborers who did the work were convicted, but the principal escaped (348-9). The Independent Atlas Pipe Line torn up where it crossed the Erie Road, grappling irons and a locomotive being used (291). At Hancock, N. Y., the pipe layers of the independents were confronted with hundreds of armed men, railroad employees, who filled up trenches and tore out pipes, put a cannon in position, and left a garrison to go into winter quarters and hold the fort (161-2).

In 1894 it was shown that New York oil consumers were paying twice as much as Philadelphia, and three times as much as foreign consumers buying in New York for export (425); discrimination against Boston (137, 189); Trust selling refined oil in Europe at prices lower than those at which crude oil could be delivered from America (439). When an independent refiner ran the blockade into New York in 1892, oil fell in New York, Brooklyn and Jersey City from 8 and 8½ cents to 4 and 4½; and in St. Louis, after an independent company succeeded in getting a foothold, the price of the best grade of oil fell to 5 cents from 14½ (427).

In 1872 the Oil combine (then called the South Improvement Co.) secured a secret agreement from all the railroads running into the oil regions, first to double freight rates on oil; second not to charge the S. I. C. the increase; third to pay to the S. I. C. the increase collected from all other shippers. The rate to Cleveland was to be raised to 80 cents, except for the S. I. C., which continued to pay 40 and would receive 40 of the 80 paid by anyone else. The rate to Boston was raised to \$3, and the S. I. C. would receive \$1.32 of it. The S. I. C. were to receive an average of \$1 a barrel on the 18,000 barrels produced daily in the oil regions. The rates were raised as agreed, but the excitement in the oil regions was so intense that mobs would have torn up the tracks of the railways if Scott and Vanderbilt and the rest had not telegraphed that the contracts were cancelled, and put the rates back (46-7, 50, 55). But some of the contracts afterwards came into court, and had not been cancelled at all (51). In 1874 the roads began *gradually* to carry out the plan that had been stopt by popular excitement in 1872 (p. 85). Independent producers built the Tidewater Pipe Line. Roads made war of rates to kill the Pipe Line. Roads finally carried 390 lb. barrels 400 miles for 10 cents for the combine, throwing away \$10,000,000 a year profits that belonged to the road stockholders in order to inflict a \$100,000 loss on the Pipe Line and help the Oil Combine in which the road managers were interested, or under the control of which they acted (109) "In this, as in all the moves of this game, we see the railroad managers of a score of different roads, at points thousands of miles apart, taking the same step at the same time, like a hundred electric clocks ticking all over a great city to the time of the clock at headquarters that makes and breaks the circuit." (136). By corrupting their officers, slandering their credit, buying up their customers, garroting them with law suits founded on falsehoods, plugging up their pipe in the dark, etc., the Oil Trust tired out the Tidewater folks, and they sold the pipe line to the Trust, which used it as an "oil railway" to transport their own oil, and left the railroads in the lurch (104-116, 112). The Pennsylvania Road tried at one time to go into the oil business itself, but the Oil Combine served notice on it to abandon the field, and on its refusal to comply with the order, the other railroads instituted a war of rates that brought the Pennsylvania Road to terms, and it sold out its oil cars, pipe lines, etc., to the Combine. Thus the oil monopolists brought to its knees the greatest corporation then in America by ordering the great Railroad War of 1877 (87-8).

When the Trust got possession of the pipe line to Buffalo in 1882, it raised the rates from 10 cents to 25 cents a barrel (150 per cent.) and the roads raised their rates at the same time, as they did also in Pa. in 1885. The railway managers used their powers to drive traffic from the railroads to the pipes of the Trust. Pittsburgh and Cleveland had similar experiences (126-7).

To shut out the oil fields and independent refineries of Colorado and Wyoming, the Combine resorts to terrific discrimination in rates. The Chicago and Northwestern Road would bring a carload of cattle from Wyoming to Chicago for \$105, but for a car of 75 barrels of oil the freight was \$348. The rates from the Western fields to San Francisco were also put very high, and the Combine built great storehouses on the Pacific Coast, which it fills from the Eastern fields, the freight rates from the East being suddenly lowered when it wishes to refill the said storehouses, and put back again as soon as they are full (Lloyd, 480-1.) The people of California are compelled to buy Eastern oil for the profit of the Trust instead of buying Colorado oil, because the freight on the latter is prohibitive (427).

The Combine sells oil below the quality required by law, and bribes State oil inspectors to loan their stencils to the Trust to do its own branding. An inspector in Iowa exposed the swindle in written charges to the Governor, which the Governor refused to investigate or allow to be seen, and

dismissed the inspector. The latter said in his complaint that the representative of the Oil Combine said to him in substance: "You are the only fool among the inspectors. We have the stencils of the inspectors at every other point where we want them." Many conflagrations in cities can be traced to low-grade kerosene. (See the whole story of this defiance of law and public safety; Lloyd, 411-19.)

The Trust has systematically done its utmost to ruin C. B. Matthews, of Buffalo (245, et seq.), and Geo. Rice (199 et seq., 200, 206, 224, 226, 233), and all others who have made a stand against it. The persistent, systematic, all-pervading, ruinous persecutions of Geo. Rice by the Oil Trust and its railroad allies form one of the most dramatic chapters in the history of industry. (Read Lloyd, Chap. XV, et seq., and write to Geo. Rice, Marietta, O., for the expanded and continued story. See also Equity Series 4, to appear soon.) The first railroad contract to ruin Rice doubled his freight to 35 cents a barrel from the oil field to his refinery, at the same time that the Combine paid 10 cents a barrel and received 25 cents of each 35 paid by Rice. The contract came into court (31 Fed. Rep., 689) and was denounced by the court as "gross," "illegal," "inexcusable." The Trust got the contract by threatening to build a pipe line and withdraw its valuable business from the railroad. "Most impudent and outrageous," said the Select Committee of the U. S. on Interstate Commerce (Rep. 49th Cong., 1st Sess. p. 199). Indeed, the courts have uniformly denounced the relations of the Trust to the railroads in language of stinging severity (Lloyd, 143, 206-8).

Stealing property, or compelling sale of it far below value, is a familiar method of getting money to give to churches and colleges (Lloyd, 52; 73, et seq, the Widow's Case, forced to sell for \$60,000 property worth over \$200,000, and perhaps \$400,000, pp. 78-9). Inventors are swindled and ruined if their processes threaten to interfere with the prosperity of the Trust, or lessen the value of its properties (191-3). Taxes are dodged (166), cheating Pa. out of millions of dollars (168). Suit brought for taxes, but Trust buys off the Attorney-General (176). Indictment for bribery and corrupt solicitation of a public officer (179), but ditched by the succeeding Attorney-General, tho the fact was publicly known by the confession of one of the principals (180).

The Trust got the railroads to bill its tank cars at 20,000 lbs., tho they actually weighed from 25,000 to 44,000 lbs., and when an investigation of the matter was ordered, the numbers of the tank cars were painted out one night and the billing could not be tested—a pot of paint and a paint brush crippled the investigation and shielded the Trust and its allies (229, 230, 235).

The chairman of one of the Congressional Investigations said to the President of the Combine: "During your whole examination there has not been a direct answer given to a question, and I wish to say to you that such equivocation is unworthy of you." (50.) Concealment is an essential part of the Trust's arrangements. It lives in the dark, and can live nowhere else. Even perjury is a common affair with its officers (59, 61, 87, 89, 95-6, 231, 234, 235, 243), and it does not hesitate to mutilate evidence and steal public archives, records of courts, testimony taken by Congressional Committees, or anything else that it thinks will be more convenient in its own possession (60, 83, 373), unless it is something that can be bought, and then it appears to prefer "purchase" (with money captured from others by the methods outlined above). It even purchased a U. S. Senatorship in Ohio for its vassal, Henry B. Payne. A member of the Ohio Legislature confessed that he had received \$5,000 to vote for Payne. The editor and proprietor of the principal Democratic journal in Ohio had stated, as was sworn to, that he had spent \$100,000 to elect Payne; the Representatives and Senators had to be bought and it took a good deal of money to satisfy them; and he complained that the Oil Trust had not dealt squarely with him in the matter. Among the chief managers of Payne's campaign were four of the principal members in Ohio of the Oil Trust. One of them, who was given financial management of the Payne campaign at Columbus, carried with him \$65,000 to use in the election, as he told an intimate friend, etc., etc. After the Ohio Legislature had examined sixty-four witnesses, the House and Senate each resolved that Payne's election had been brought about by the corrupt use of money. An investigation by the U. S. Senate was urgently requested by the Governor and both branches of the Legislature of Ohio officially, and unofficially by the press, the public appeals of leading men and the petitions of citizens regardless of party (373-4, 377, 378, 379, 382, 383-7).

"Technicalities" defeated the demand for an investigation, despite the earnest appeals of Senator Hoar and others. Payne did not want to be examined. He had not a dollar's interest in the Trust, he said, and pleaded that its officials were good men because they gave a great deal of (other people's) money to charitable purposes. But the charge he would never allow to be investigated was that the Trust had a great many dollars interest in him. And, as for the charity, it is well-known that, as Lloyd has so well said, "The Trust is evangelical at one end and explosive at the other." (358.)

Such are a few of the atrocious acts of the oil monopoly; not a complete list of oil atrocities by any means, nor even a complete list of those that



## GAMBLING.

10. *Speculation and Gambling* in stocks is an evil largely due to the great private monopolies. Stickney says that private railways and stock exchanges "*constitute the most perfect machinery for the purpose of legalized robbery that the human intellect is capable of devising.*"<sup>1</sup> The italics are his. If you will go to the stock exchange in any great city, or look thru the Red Manual, or read the reports in any big daily, you will find that gas and electric stocks, traction companies and a few great trusts, together with the railroads, make up the lists. The evils of a system that encourages men to seek wealth by the rise and fall of stocks instead of by honest industry are too clear to need comment. We may note, however, an indication as to the influence that controls our law making and our teaching when we see gambling with dice and cards prohibited, but gambling with stocks permitted and protected by law; grab-bags and raffles condemned in Sunday schools and churches, but the stock broker and manipulator in the front pew—poor folks' gambling very immoral, but the gambling of the rich folks with the loaded stocks of the big monopolies—hush!

## UNJUST INDIVIDUAL AGGRANDIZEMENT.

11. *Congestion of Wealth and Power* is practically synonymous with private monopoly. Private monopoly involves congestion of power, and is almost sure to produce congestion of wealth. Preceding sections have shown this, and all that we need to do here is to emphasize the extent of the evil.

According to Dr. Spahr's tables,<sup>1</sup> one-half of the families in the United States own practically nothing—have no part in the productive capital of the country, and no property of any kind except their clothes and a little furniture; seven-eighths of the families hold but one-eighth of the wealth, and one per cent. own more than the other ninety-nine per cent.

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have been discovered, but a few indications of what may be expected if this combination and its allies get control of our gas-works, electric light plants, street railways, etc. (See end of sections 1, 2, 3, 4 and 8.) These, with the above paragraphs, show that the oil combination exhibits every evil incident to private monopoly, and most of them in an aggravated form.

<sup>1</sup> The Railway Problem, p. 202.

<sup>1</sup> "Distribution of Wealth," by Dr. Charles B. Spahr.



That is, upon the face of the returns industrial monopoly is clearly traceable as a cause in the building of about four-fifths of the fortunes of the millionaires and polymillionaires named in the Tribune List. If we knew all about the 854 cases in the last entry, it is probable that we should find some rebate, or government influence, or favoritism of some monopolistic magnate—some special privilege aside from individual character and intellect, entering as a vital factor into nearly every case. Brain and soul may bring a competence in a fair field, but it is a rare thing for them to bring great wealth without the aid of some outside advantage tending to shut out competition; and when they do it will usually be found, as in the case of fortunes made in the legal profession, that the result could not have been achieved but for the enormous salaries and fees which the *monopolists* paid, and were able to pay because of their monopoly profits, and were willing to pay because their own great gains and salaries had put them in the habit of giving large prices to men close to them and high in their affections. I am not sure of a case where brain and heart have won a million without the aid of some natural monopoly or governmental influence, or the weight of accumulated wealth, or the favor of one or more undoubted monopolists. If the reader is sure of such a case, I shall be grateful if he will write to me of it, giving such detailed proofs as he can.

The amount of monopoly tax upon our people cannot be accurately ascertained, but it sums up to an enormous total,<sup>3</sup> and the worst of the system is that its effects are accumulating with vast and ever accelerating rapidity, and that it is separating our people into inharmonious classes, creating castes in our cities, and bleeding whole groups of states to enlarge the profits of a few great monopolies. The farmers and mechanics, merchants, doctors, builders, the whole body of workers pay tribute to the monopolists; and the West and South and Centre pay tribute to the East, because the monopolists mostly reside in that quarter. Private monopoly and its profits are dangerous to peace and free institutions.

*"Monopoly in any kind of business in this country is ad-*

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<sup>3</sup> See Prof. Commons' *Distribution of Wealth*, pp. 257-8, where a few facts are given relating to land, transportation, gas, etc.

verse to our form of government," said Chief Justice Sherwood. "*Its tendency is destructive of free institutions and repugnant to the instincts of a free people*, and contrary to the whole scope and spirit of the Federal Constitution. Indeed, it is doubtful if free government can long exist in a country where such enormous amounts of money are allowed to be accumulated in the vaults of corporations to be used at discretion in controlling the property and business of the country against the interest of the people for the personal gain of a few individuals." <sup>4</sup>

"I want to know," said Senator Hoar, in 1888, on the floor of the United States Senate, "I want to know the facts about these five or six great trusts, which are sufficient in their power to overthrow any government in Europe, if they existed in those nations, that should set itself against them," naming transportation, coal, sugar, oil, etc.

"The freest government," said Daniel Webster, "cannot long endure where the tendency of the law is to create a rapid accumulation of property in the hands of the few."

#### INERTIA OR NON-PROGRESSIVENESS.

12. *Non-progressiveness* on certain lines is natural to the monopolist. He wants to get all he can out of his capital, and is more or less protected from the compulsory progress imposed upon the owner of a competitive business. So we find gas works putting out the old-fashioned product instead of giving the people the benefit of the cheaper and better gas we can make to-day. Street railways keep on using the old rail that makes the street rough and dangerous to delicate buggy wheels, instead of putting down the grooved rail, level with the surface of the road, so that the street may be smooth and safe from curb to curb. We find them also neglecting to warm the cars, or fit them with fenders or vestibules, till forced to do so by law. Even severe mandatory legislation sometimes fails to move the monopolies. It has failed to make the railways remove the deadly stove from their cars, or adopt safety couplers and crossings. Even Chauncey M. Depew is re-

ported to have been arrested for violation of the law in respect to the use of stoves in the trains of the railway of which he was president, and charged with manslaughter, under the provisions of the act, for permitting the continued use of stoves, which in an accident burned up a few travellers. Professor Bemis says: "The natural tendency of a monopoly so strongly protected as are the lighting monopolies of Massachusetts would be toward lack of progressiveness." And, as the Professor remarks in the next sentence, the lighting business in other states is, in fact, about as complete a monopoly as in Massachusetts, and, therefore, equally non-progressive.

None of the private monopolies, so far as I know, have the development of manhood and the progress of civilization as their aim; none of them seek to extend their services to people in rural districts, as the Post Office does, and the English postal telegraph, and the public water and electric systems, and the school and road departments, do in all our states; and some of the private monopolies not only neglect to move, but even deliberately suppress important inventions which would compel movement if not suppress.<sup>1</sup>

#### MASTERSHIP AND OPPRESSION OF LABOR.

13. *Ill treatment of employes* is emphatic in the case of some monopolies, but is by no means so universal as most of the evils previously discussed. There are two reasons for this: (1) Some monopolists from business policy, humanity, good feeling, pride, or love of approbation, pay fair wages and accord their employees reasonable treatment. (2) In some monopolistic industries the workers, or large classes of them, at least, are able to protect themselves. The history of the great strikes on the the street railways of Brooklyn, Philadelphia, Boston, Detroit, Cleveland, Wheeling, etc., and the record of the telegraph and telephone monopolies show what private mo-

<sup>1</sup> Postmaster General Wanamaker's Argument for a Postal Telegraph, 1890, pp. 11, 143-5, enumerates 16 inventions suppressed in one way or another by the Western Union—some of them of vital importance for cheapening, quickening and improving the transmission of intelligence; but their introduction would relegate part of the Western Union plant to the junk pile, so we must wait till the millionaires are ready for the curtain to go up. (See Arena, Vol. 16, p. 362, and Vol 17, pp. 200, *et seq.* )



nopoly may mean to employees where neither of the above-named safeguards is operative.

The strike of the employees of the "Big Consolidated" street railways of Cleveland has been attended with riots which the police appear to have been unable to quell. Two cars carrying passengers have been blown up with dynamite. Troops have been sent to restore order, and the cars are running again. The strikers and those who sympathize with them have instituted a "boycott" against all who use the cars, forbidding all dealings with such persons, and endeavoring to cut them off from all supplies, even from medicines and the attendance of physicians, and local business has suffered greatly in consequence.<sup>1</sup>

In Brooklyn also street railway strikes have proved prolific sources of violence, and have caused great loss to the companies, the strikers and the public. In 1895 it took all the police of the city and 7,000 soldiers to preserve order. The companies refused to grant the reasonable wages and hours demanded by the men, and as they could not get men to accept the terms they were willing to give, they did not run their cars even after order was restored. Wherefore Justice Wm. J. Gaynor, of the Supreme Court, in the matter of *Loader v. Brooklyn*

<sup>1</sup> The text expresses facts visible to an observer at a distance thru the medium of the best papers. The following statement of facts comes from the Rev. W. D. P. Bliss, President of the National Social Reform Union. His sympathies are strongly with the men, but he is a man of the very highest character, and he got the facts on the spot, and when he relied on testimony he did not take it from the workingmen, but from "unprejudiced observers."

The cause of the trouble was consolidation and strenuous effort to make dividends on overcapitalization. The companies worked the men longer hours and made them drive the cars faster and at illegal speed. Some of the "trippers," or men employed for special runs, had to be at the car sheds waiting for runs from 5 A. M. to 1.30 A. M. the next night, 20½ hours out of the 24. Many accidents occurred and several children were killed. The men protested against the long hours and the fast runs. They did not enjoy killing children nor spending their whole lives in barns, or on the road. The only heed the companies gave was to employ a new superintendent, noted for harsh dealings with his men. Men who dared to complain were discharged on the slightest pretext. Finally the men struck, not for higher wages, but for *humane treatment*. Knowing that without a union they were helpless, they demanded recognition of their union. The company refused. The State Board of Arbitration tried to mediate and failed. A committee of the City Council succeeded in patching up an agreement and the men went back to work. The company failed to keep its contract, those who had struck being discharged as rapidly as possible. The men struck again. Every employee went out. There was no violence. The company got new men, but could not get patronage. The sympathy of the city was with the men. Then the companies blew up a barn with dynamite, previously notifying the "scabs," who slept in it, not to do so that night, and one of their armed "scab" motormen shot a boy who yelled "scab!" and the papers were filled with lurid columns about "the riotous strikers" and their terrible use of dynamite. As a result of these atrocities and the provocation of the state troops some violence has been done by the strikers. The city still shows its faith in these facts by largely sympathizing with the strikers and refusing to ride in the boycotted cars.

Heights Co., &c., issued writs of mandamus to compel the roads to run their cars.<sup>1</sup>

In a letter to the Board of Mediation, Feb. 4, 1895, Judge Gaynor said that the real cause of the trouble was deeper than anything in the statement of grievances before them. "It lies in a state of disquiet and moral protest not confined to the employees of the companies, but pervading this intelligent community, and which was caused by the recent speculative uses and manipulations to which these companies have been subjected." It was overcapitalization and the strain for dividends that caused the heartless disregard for the welfare of employees and the public which brought on the strike.<sup>2</sup>

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<sup>1</sup> The judge said that a body of workers acting in concert had a right to fix a price for their labor, and refuse to work at a less price, and that if the roads could not get men to work at its terms, they must offer terms on which they could get men. They could supercede their employees gradually, day by day, by men who would work on their terms if they were able to find such men, or they could supercede them all at once if they had a sufficient number of new employees for that purpose; but they had no right to stop their cars during such a controversy, while they were gradually getting other men. It was their duty to the public to run their cars with a full complement of men. Any citizen could apply for a writ to compel the roads to do their duty.

As a question of fact was raised by the companies, the writ had to be in the alternative. And as the statute allowed 20 days time in which to answer such a writ, it really amounted to little in this case. An extreme absurdity in the law to require that carriers shall not stop their cars a single day, and yet allow 20 days time on the writ of compulsion. The time should be shortened, either by definite provision or by putting the matter in the discretion of the judge. Or the companies should be required to obey the writ until they show cause to the contrary, and then let them fix the date of hearing as soon as they like, subject, of course, to recoupment for the intervening time if they succeed in showing that the order should not have issued.

<sup>2</sup> The judge remarked that a few years before the Brooklyn City Road had three millions of stock and three millions of bonds (or \$30,000 total capital per mile, which is high for horse lines). The bonds were increased to six millions and the stock to twelve, in order to change from horse to electric traction overhead (an increase of \$60,000 a mile of track, or about double the probable cost of the change). "But," as the judge said, "the case does not stop here. *The next two steps are what aroused the public conscience.* Those in control took this great company, and in 1893 leased it for 999 years to a little street railway company called the Brooklyn Heights Railroad Company which they had got control of. This little company had a paper capital of \$200,000, and a *mile or less of track.* One might think that instead of the great Brooklyn City Railroad Company system (with its 200 miles of track) being turned over to this miniature company, the reverse would have happened; but it did not, for that would not have served the purpose in view. By the terms of the lease this little company agreed to pay the interest on the \$6,000,000 in bonds and a yearly dividend of 10 per cent. on the \$12,000,000 in paper stock of the Brooklyn City Company. All the overplus it was to keep. That was to go to its stockholders. Thus the little company was made the absorber of all the earnings of the Brooklyn City Company over and above what would have to be taken to pay, as above stated, the interest on the bonds and a 10 per cent. annual dividend on the stock of the latter company.

"But this did not satisfy those who had gone that far. They must go further. To evade the payment of the incorporation tax of this state they went down to the state of West Virginia, and there, in March, 1893, formed a corporation, called the Long Island Traction Company, with the enormous paper capital of thirty million dollars (\$30,000,000). I need hardly say that this huge paper company had not a day's work or a dollar back of it. It did not own a steel rail, a stick of wood or anything in the world. All that there was of it was on paper. It was not a railroad company, but a business company, its very name being a falsehood. It was brought up to

In the Philadelphia strike of 1895 the men demanded recognition of their right of organization, a ten-hour day, with wages not less than \$2, and vestibules to protect the motor-men from the rigors of winter and the inclemencies of the weather. Public sentiment was overwhelmingly with the men, and after a time the traction authorities patched up a truce on an agreement to consider grievances, and not to discharge any one for membership in the union. The men went to work again, and the company began to discharge the active members of the union, one by one, on the flimsiest pretexts—little mistakes formerly unnoticed and almost impossible to avoid, trivial accusations of being two or three minutes late, some small breach of the rigorous and complex rules that street railway companies know so well how to make, and which even the best men find it practically impossible to conform to perfectly. Some of the men discharged had served the roads for fifteen to twenty years, and had records entirely clear of any real fault, unless membership in the union be so considered. The company paid no more heed to its agreement to consider grievances than to the rest of the contract. So, in one of the

Brooklyn, and those who created it, and also owned and controlled the little Brooklyn Heights Company, turned over to it the certificates of the stock (\$200,000) of the latter company. And thus, connected by these two links with the Brooklyn City Company, this West Virginia company, with its sham paper capital of \$30,000,000, became the absorber, thru the little Brooklyn Heights Company, of all the earnings of the Brooklyn City Company over the interest on bonds and the 10 per cent. annual dividend on stock already specified.

"The effect of these transactions was pernicious to the community. They were discussed and condemned wherever two or three met. Our people lookt on and became justly irritated and uneasy. They knew that the thing remaining to be done by those in control of these enterprises was to thus absorb a surplus out of the Brooklyn City Company large enuf to pay a dividend on this sham \$30,000,000 of paper stock of the West Virginia company, thereby to make that stock worth par, and enrich its holders out of the industry of others. To do this the employees of the company knew, and every one knew, that the expenses of the Brooklyn City Company would be cut down to the lowest point. The result of such stock inflation is always the same, and the attempt by this means and by that to get money to pay a dividend upon it always follows, and thus it is always the cause of heartlessness and oppression. In giving this history concerning the Brooklyn City Company I have given you the history of the Atlantic Avenue Company, which is subject to the same process of inflation and absorption by another so-called traction company."

Since the judge wrote, the leading Brooklyn companies have been absorbed by the Brooklyn Rapid Transit Company, a New York corporation of 1896. Excluding the 1.2 miles of cable and the 2.3 miles of "L" road and their capital, we find that October 1, 1898, the capitalization of 261 miles of overhead trolley, with less than 9 cars per mile, was \$53,000,000, or \$200,000 per mile of track. The bonds alone amount to more than \$80,000 a mile, or at least double what it would cost to duplicate the system complete, so that half the bonds and all the stock must be considered simply as paper, without a base. About \$10,000,000 of new stock will soon be issued to enable the company to get control of the 132 miles of the Nassau trolley, already capitalized at \$200,000 a mile, and the absorption of the Coney Island line is also contemplated. That will complete the consolidation of the Brooklyn surface roads under the rapid Transit Company.

most promising strikes on record, with the men well united and an outraged public sentiment overwhelmingly with them, the corporation won by faithless strategy, and the men were really worse off than ever. Wages and hours remained as before,<sup>1</sup> and the power of capricious discharge, and the failure to protect conductors from loss by careless or fraudulent miscounting of the money they turn in, which could easily be done by ordering such moneys to be counted in the conductor's presence. The men have not secured any real recognition of their right to continued employment, and organization, and impartial arbitration, or even fair consideration of grievances. Even the vestibules were not obtained, and motormen had to keep on whizzing thru the winter at the rate of 8 to 12 miles an hour or more, and sometimes in the teeth of a 40-mile zephyr at zero or lower, with nothing in front of them to break the force of the wind.\* Cold and exposure, long hours and nervous strain materially shorten the lives of motormen; but men are cheap, cheaper even than the horses the companies used to ill-treat before they got the motormen. Often they get frosted fingers, ears and feet, and sometimes, as in Boston, January 26, '96, numbers of them find their *faces frozen*. The locomotive engineer, the steersman of a tug, the pilot of an ocean steamer, are all protected against the weather. In Ohio, Indiana, Michigan, Minnesota, Wisconsin, and perhaps some other states, the law requires vestibules on street cars, and they are voluntarily used on a number of lines in Massachusetts, New York, New Jersey, Pennsylvania, etc. The postal cars in Philadelphia have them. There is no reason in the world but heartless greed why vestibules, with moveable windows, should not be put on every trolley and cable car in the north.

<sup>1</sup> The nominal day was 12 hours, but the practical day was 13 to 14 hours, with a brief intermission for lunch, and the pay 16 2-3 cents an hour. In New York the men on some lines declare that they work 14, 15, 16 and even 17 hours to earn a two-dollar bill. The Union Traction Company of Philadelphia said it couldn't afford to pay any better wages. It had intentionally put it out of its power to make reasonable concessions to the public or the men by a scheme of leasing the united roads at enormous rentals, amounting in some cases to more than 60 per cent. on real investment, and footing up about five million dollars. It is the old scheme of keeping yourself in several pieces and making a contract with each piece, so that you can say, if any demand is made upon you, "I really can't reduce rates or pay good wages or do anything else (except run the business as I want to). If you doubt it, just look at the contract obligations I am under."

\* A year or two later vestibules were put on the cars on the longest, suburban lines.



The resistance of most of the companies to this humane requirement till forced by law to adopt it, their persistent refusal to arbitrate or consider grievances, their arbitrary discharges and burdensome regulations and their efforts to crush the unions are strong indications of their attitude toward employees, who are no more to them than so many cogs in the machinery of their power-houses.<sup>2</sup>

The strikes that blaze out now and then to show us the real condition of things are industrial rebellions, little civil wars, relics of the barbarous age in which men fought out their difficulties in the streets instead of submitting them to decision by the intelligent arbitrament of a court of justice. They are calamities in general to the public, the companies and the strikers. Now and then there is a successful strike, as in Detroit, with the help of its splendid Mayor, Pingree.<sup>3</sup> But, as a rule, these battles with monopoly fail, and even their educational effect, for the most part, seems to fade and die in a little while. Put not your faith in strikes, my brother, but in steady, peaceful education and the ballot.

#### LOW CHARACTER PRODUCT.

14. *Debasement of Human Nature* is a natural result of any arrangement by which a few selfish men are able to achieve industrial and political mastery over others. The monopolists themselves become arrogant, overbearing, undemocratic, disregarding of the rights of others, apt to look at men not as equals and brothers, but as so many *things* to be used in their works, grist to be ground up in their money mills, oranges to be squeezed and thrown away. The workers, on the

<sup>2</sup> For the treatment of employees by the Telegraph Monopoly, see Arena, Vol. 15, pp. 802-14.

<sup>3</sup> The men began to form a union, got 39 members, the companies began discharging them, the men went out in a body, perfected their organization and demanded its recognition, with better wages and hours, and with the help of Mayor Pingree they won. The companies in Detroit agreed to recognize the Amalgamated Association of Street Railway Employees, and make a yearly agreement with it covering wages, hours, etc., and providing that all difficulties should be submitted to arbitration, the award to be binding on both parties. (Motorman and Conductor, October, 1895.) In Milwaukee also the companies deal with the men thru their association. In Boston, too, the men have an organization, which is recognized by the company. But in New York the men do not dare to belong to a labor union, or at least they do not dare to have it known that they do, and it is very hard to keep the fact from the company's spies. The men, both on the elevated and on the surface lines, tell me that the moment a man joins a union he is discharged.



other hand, too often take on the character of serfs—unquestioning obedience to constituted control, unprotesting submission to low wages and ill treatment, slavish deference to wealth and power, regardless of its justness, willingness even to think and vote the way their masters dictate. Divide men into controllers and controlled on any basis but that of intelligent selection of the controllers by the controlled, for the service of the controlled, and subject to their instructions, and you destroy the truth, courage, independence and brotherly sympathy that lifts human nature to its highest type.

#### ARISTOCRACY.

15. *Denial of Democracy* is the very marrow of monopoly. Democracy says "Equal rights to all; special privileges to none." The monopolists say "Special privileges to us; the rest may have what they can get, and what we may choose to give them." Democracy means equality of opportunity and equal protection of the laws. Monopoly means inequality of opportunity and government by and for the few. We do not need to dwell upon the topic here, for the aristocratic tendencies of private monopoly and its dangers to republican government and free institutions have already been rendered emphatic by the facts of the preceding sections. (See especially 8, 9 and 11.)

#### THE BENEFITS OF MONOPOLY.

The benefits derived from monopoly thru its stoppage of the wastes of competition within the field it covers, are admitted by all serious students of the subject. Competition in the supply of water, gas or electric light, or in the street railway, or telephone service, is an absurdity. It has been tried scores of times, but has never succeeded. It is a terrible waste to tear up the streets and put in parallel systems of gas or water pipes, and then maintain two pumping or producing plants and collecting agencies where one would do. With the telephone the case is even worse, for besides the duplication of systems, subscribers are forced to belong to *both* systems in

order to communicate with the whole field, and sometimes, where the systems are quite unfriendly, complete service becomes impossible to secure. The vast economy of union is indicated by such facts as that the consolidation of the street railway companies of Boston saved 200 cars a day, and that the 31 manufacturers of matches in the United States were able, by combining, to close all the factories but 13 and still supply the market fully. A carload of facts to the same effect could be adduced, but it is not needful, for no one denies that conflict is wasteful or that union and concentration mean strength and economy. The irresistible movement<sup>1</sup> toward the abolition of competition in respect to gas, water, electric light, street railways and other public utilities, that has brought the companies together into solid trusts and mighty combinations, is fully justified on economic grounds. No well-informed economist advocates competitive enterprise in the public utilities of a municipality, for he knows that it means large wastes and ultimate failure thru open or secret combinations of the competing companies, with high rates fastened upon the community by a double capitalization.<sup>2</sup>

<sup>1</sup> Within the last few years the gas companies in Boston, New York and Chicago have united. A single monopoly controls the gas works in thirty cities. Electric light companies are also combining, and street railway systems are consolidating at a tremendous rate. Substantially all the roads in Boston have been gathered under one wing, which also covers the elevated franchise. In New York all the elevated roads have come under one management—four surface roads are united in the Third Avenue system, and thirty roads, all the rest in the city, are operated by the Metropolitan Company. In Chicago the crystallization has not gone so far, but the chief lines have clustered into three great systems. This was the situation also in Philadelphia till 1896, but in that year the three systems came together in the Union Traction Co., and now the Hestonville line has been swept within the circle, and all the twenty-five original roads in the city are in one solid system, the lines being leased to the Union Traction Co. for 999 years.

<sup>2</sup> See Prof. Ely's "Problems of To-day," chapters on gas and railways. Also "Municipal Monopolies," p. 594, quoting the testimony at Cleveland of Captain Wm. Henry White, identified at different times with competing gas companies in Boston, Chicago, Baltimore, Brooklyn, etc. The Captain says: "Among the blessings that long-suffering communities have in this country is the competing company. \* \* \* They produce a new plant, put in all the apparatus and parallel the mains of the other company, and they try for a while to fight, and we have the usual gas war. Then the two companies get together and say: 'Well, now, we have done the philanthropic act long enough, and we think the public had better pay for this little picnic of ours.' They unite, and usually double the capital when they unite." (That is, they double the total existing capital of both companies, making a capital fourfold that of a single unmanipulated plant.) After speaking at some length of the gas consolidations in Boston and vicinity, and in Chicago, all on the principle just mentioned, the Captain said: "The competing company is not a panacea for the ills the public has suffered. The opposition company is the greatest mistake that is ever made."

Prof. Ely says: "Competition in gas has been tried 1000, yes, probably 2000 times, but never has been and never can be permanent." (Problems of To-day, pp. 128, 142, 256.) See also Bronson Keefer's article in The Forum for November, 1889, and Prof. James' discussion in Pub. of Econ. Asso.,

The competition we have been speaking of is competition between two or more private plants. Competition between a public plant and a private one may be successful (as in Hamilton, O., with gas, and in Stockholm, Sweden, with the telephone), successful, that is, for the public plant; it almost certainly means ultimate ruin for the private plant, and is subject to the objection of a wasteful duplication of systems.

### THE PROBLEM.

The problem of monopoly is to retain the advantages and get rid of the evils of the monopolistic systems that so largely control our industries, and especially the public utilities of our cities.

### THE SOURCE OF BENEFIT.

The element in monopoly from which its good effects arise is the exclusion of conflict, with its wastes and debasements, from a certain field, and the development of union, co-ordination and harmony of effort within said field.

### THE ROOT OF EVIL.

The evils of monopoly flow from power *plus* antagonism of interest between those who own and control the monopoly and those who are served by it. The antagonism of interest between the monopolists and the public, together with the power which the monopoly gives to make that antagonism effective, is the fundamental cause of the excessive rates, exorbitant profits, watered stock, false accounting, poor service, disregard of public safety, unjust discrimination, fraud and corruption, defiance of law, speculation and gambling, concentration of wealth, non-progressiveness, ill treatment of employees, debasement of human nature and opposition to democracy, which we have found to characterize the monopolistic

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Vol. I, where twenty great cities are named which had tried competition in gas, always with the same result—combination, with division of territory, or some form of consolidation, and a determined onslaught upon the public. In Baltimore the companies united and advanced the price 75 cents a thousand.

In Harrisburg the price went up from \$1 to \$2. In New York some years ago, before consolidation, gas sold for a time at 75 cents, but when the companies came together they put enuf more water in the capital to buoy it up from 18 1/3 millions to 39 millions, and raised the price to \$1.75, a jump of 130 per cent. above the competitive level.

systems under consideration. All these things are contrary to the public interest, and are clearly so understood by our people, wherefore they could not exist except for an interest antagonistic to the public interest and in possession of sufficient power to make its antagonism effective. To abolish the evils of monopoly, therefore, it is necessary to remove the antagonism of interest between the owners and the public, or else to deprive the monopolists of the power of pushing their interests against the public interest. That the antagonism of interest is the vital cause, and the power merely the condition, is clearly evidenced by the fact that the very men who manage the great monopolies with a single eye to the private interests of the stockholders who own the properties, are often among the most efficient and public-spirited servants of the people when entrusted with public business. As officers of a gas company or a street railway they serve the company with all their power, and any interests that oppose it must take a back seat. As officers of a public enterprise they serve the public with equal power. They are true to the financial interests of those to whom they owe the primary financial allegiance as they understand it. If they are to manage the property or conduct the business of A., B. & C., they think it ought to be managed or conducted in the interest of A., B. & C. If they are to manage the property or conduct the business of a city, they think it ought to be managed or conducted in the interest of the city. If A. & B. own the property, they have a right to manage it for their benefit; if the city owns the property it ought to be managed for the benefit of the city. This is the attitude of practically all our honest business men, and nine-tenths of them are honest, according to the financial ethics of the day, a fundamental maxim of which is that property should serve the interests of its owner. Business men believe that if a plant belongs to a small body of stockholders it should be run to make money for them; and on the same principle, if the body of stockholders expands until it includes all the inhabitants of a city, or in other words, if the plant becomes public, they believe it should be honestly conducted for the benefit of the public. Make them the agents of a few private stockholders, and the community must take

care of itself. Make them the agents of the community, and all their energy and integrity come over to the service of the community. It is at bottom a question of ownership and the sentiment and business ethics that go with it. The antagonism of interest arising from the private ownership of monopoly is therefore the real root of the evils of monopoly.<sup>1</sup> Public ownership of monopolies removes this antagonism between the owners and the public by making the public and the owners identical. Public ownership is therefore a solution of the problem, since it retains and even intensifies the benefits of union, co-ordination, exclusion of conflict, etc., at the same time that it eliminates the effective cause of evil. Further, Public Ownership is the only complete solution, for it alone can remove the active principle of evil. And the *condition* of its activity, the power that goes with the private ownership and control of a great monopoly can only be destroyed by

<sup>1</sup> To illustrate the breadth and strength of the antagonism of interest between the monopolists and the public, take the following analysis from my Fabian pamphlet, "Municipal Street Cars:"

#### THE PEOPLE WANT.

1. Low fares.
  2. Good service.
  3. Seats for all.
  4. Efficient fenders.
  5. Cars well warmed in winter.
  6. Grooved rails, laid so as to leave the streets smooth.
  7. A system safe and convenient.
  8. Reasonable profits on actual investment.
  9. Honest book-keeping.
  10. Just assessments and equal taxation.
  11. Honest and impartial government in the interests of all.
  12. Good wages and reasonable hours for all employees.
  13. Full freedom of organization.
  14. Vestibules for the motormen.
  15. Arbitration of difficulties.
- In short, the people ask for justice, kindness, fair play and the public good.
- The people say, "Do what is fair by your patrons and employees, and all will be well."

#### THE CORPORATIONS WANT.

1. High fares.
  2. Small expenses.
  3. Passengers on the straps, in the aisles and on the platforms.
  4. No expense for cushioned fenders; it is cheaper to pay damages than buy good fenders.
  5. Little or no expense for heating; it is cheaper to freeze the passengers.
  6. The cheapest rails, whatever effect it may have on the streets.
  7. The dangerous, ugly, street-marring overhead trolley system.
  8. Big dividends on watered stock.
  9. Doctored accounts.
  10. Shrunk assessments and escape from taxation.
  11. Corrupt government in the interest of corporations.
  12. Long hours and short wages for the men; short hours and big wages for the managers.
  13. No union men.
  14. No expense for vestibules; men are cheaper than glass and wood; if a man freezes now and then it is easy to buy another.
  15. Their own imperial way, with "nothing to arbitrate."
- In short, the corporations aim at fortunes for industrial aristocrats.
- The corporations say, a la Vanderbilt (and act it when they do not say it), "The people be—d!"



eliminating the said private ownership, or the control, which is the essence of the ownership.\*

### COMPETITION.

Competition is clearly no solution of the monopoly problem. *First*, because it forfeits the benefits of monopoly, which consist precisely in getting rid of competition with its wastes and obstructions. *Second*, because it is impossible. (See above, "The Benefits of Monopoly," also Appendix II.)

### REGULATION.

Regulation, tho of decided use, is not a solution of the problem of monopoly, because it cannot remove the root of the evil, nor the soil in which it thrives. The antagonism of interest remains as long as the private ownership remains, and the power to make the antagonism effective will also remain so long as the private ownership of the monopoly continues. Private ownership of monopoly means antagonism to public interest, and it also means power. If you take away the monopolist's control, you take away the heart of his ownership. The paper title is not the ownership; it is only the evidence of ownership. The substance of ownership is the power to control the property. You may *modify* this power and still leave the monopolist some ownership, but if you take the whole power you take the ownership.<sup>1</sup> And if you do not take the

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\* If you leave the private title and do not take the whole control, you have still the antagonism and the power, and the evils will result to the extent of the power you have left outstanding. If you take the whole control, you take the real ownership, however the paper title may read. So that, whether you aim to annihilate the active cause of evil or the condition of its operation, you are driven alike to Public Ownership in substance, whether it be so named or not.

<sup>1</sup> To take the whole power by taking the title and control openly on just compensation is fair and right. It is also fair to modify the power of the monopolists by laws and ordinances reducing rates and overcapitalization, obtaining better service, alleviating the condition of employees, securing publicity of accounts, diminishing discrimination, and much may be done in this way to lessen the evils of private monopoly and to smooth the way towards completely harmonious public-spirited industry. But to take the *whole* power of control under the guise of regulation would amount to taking the property for public use without just compensation. "Regulation" that goes as far as this ceases to be regulation, and becomes public ownership by a process that comes pretty close to confiscation; and yet if it does not go so far as this the problem is not solved, for some power, plus antagonism, will remain; in other words, regulation cannot solve the problem, and nothing but public ownership or complete co-operation can.

If we say to B., the owner of a ferry-boat, "You must run your boat so and so, in accordance with our regulations, charge just what we tell

whole power, if any loophole is left for the monopolist to use the forces of the monopoly according to his own discretion, to that extent the business will be managed in private interest (without the natural checks of competition) and the evils of monopoly will make their appearance.

As a matter of fact, regulation has met with all sorts of failures and difficulties. It works under serious disadvantages. (1) It lets one set of men do the work and employs another set to determine how it shall be done, and a third set to watch the first, and see that the regulations provided by the second set are properly obeyed. (2) It leaves the antagonism of interest rankling underneath. The monopolists and their agents resent the outside control, and scheme to evade or defy the law. The managers regard the gas plants, street railways, etc., as the property of themselves and the stockholders who elect them and pay them; they regard effective regulation as a violation of their property rights, and endeavor to nullify it; and, if compelled to serve the public instead of the stockholders, they do so in a half-hearted, rebellious way, perpetually seeking a path of escape. (3) The added impulse to fraud and evasion emphasizes the corrupting of public officers and the demoralization of business men. The most powerful and unscrupulous corporations, the very ones most in need of control, are able to avoid the law. They get their vassals appointed as commissioners, or they capture the regulators by their intelligence, wealth and courtesy, or they block them by false accounts, or tie their hands by imperfections in the law, introduced thru the force of their money and influence and the cunning of their keen attorneys. There are very few laws that the great corporations are bound to obey, and the

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you to, pay us what we choose to demand and keep your accounts as we direct; your agent must do as we say, not as you say, in all respects affecting our interests; you may keep the *title* to the boat, and we will allow you some interest on the money you have invested in it, but the management of the property is to be as we direct"—if we say this, we take the vital ownership to ourselves, and the case stands substantially as if we had borrowed the money from B. at interest fixed by ourselves, and built the boat and controlled it in our own name.

Any such complete absorption of control by the public would probably be regarded by the courts as unconstitutional and void, as taking private property for public use without compensation; and might really be quite unjust, especially if the interest were small and the risk were left on B., or if other monopolists were left in larger control of their properties, thereby depriving B. of the *equal* protection of the laws. Yet any regulation short of such complete absorption of control will leave a margin of monopoly evil.

power of the companies to defeat the will of the people is growing every day thru combination, consolidation and the increase of corporate wealth. So thoro is the control of the big monopolies over the machinery of regulation that even in the states where this method has been most fully tried the giant companies regard the system as a protection and not as a menace. (4) The courts are apt to interfere to prevent the enforcement of any regulation that cuts near the bone in the financial quarter. Over capitalization and the innocent purchaser are an infallible vaccine to keep off an epidemic of just rates, which the corporators fear worse than the plague. (5) As long as the monopolists can keep their excessive rates, they can buy the fulfilment of their wishes the rest of the way.

In short, regulation fails at the vital points. It leaves the monopolist in possession, with right of property and more or less control. He has a full purse, a cunning lawyer and a flexible conscience, bowing before the business maxim that property is to be managed in the interests of its owner, and the rest is easy. In dealing with little concerns, regulation is often successful in a high degree, tho never attaining the full perfection of a harmony of interests; but in dealing with great affairs, tho good is accomplished here and there, the general result at the vital points is failure.

I suppose no state has done more in the direction of regulating monopolies than Massachusetts. It is regarded as the model state in this particular. And there is no doubt that good has been done in the way of keeping down capitalization in the towns and smaller cities, improving the service slightly, publishing some information and reducing rates somewhat. But when we come to the West End and the gas companies of Boston, just where regulation is needed most, what do we find? We find these interests for the most part regulating the regulators.<sup>2</sup> Look at the Bay State Gas case and the West End investigation! (See above, 8 and 9.) See the Massa-

<sup>2</sup> I say for the most part, for there are notable exceptions. The Railroad Commission did so far listen to public opinion and common sense as to refuse assent to a 99-year lease; and a 25-year lease in Boston is better than a 999-year lease in Philadelphia or New York, or a 50-year lease in Cincinnati, even with all the unfair advantages and immunities granted the West End St. Railway interests with the 25 years. (See "Municipal Monopolies," p. 661.)

chusetts Gas Commission suppressing facts of vital interest to the people! Look at the crowded cars, the overcapitalization, the excessive rates and the unprotected motormen on the West End! Look at the watered gas stock, 4 or 5 times the gas capitalization of New York or Chicago, and ten times the true figure! See how the Gas Commissioners, while holding down the capitalization of comparatively small companies outside of Boston so that it fell from \$5.72 in 1886, to \$2.87 in 1897, have, nevertheless, failed to prevent the rise of gas capitalization in Boston from less than \$4 in 1888, to over \$42 in 1898.

The companies pay the commissioners' salaries and usually have the privilege of nominating them. Some of them, both on the railway and the light commissions, are known to be the companies' vassals. In some instances the person appointed as commissioner has been known to have previously acted as attorney for one of the chief monopolies whose business he would have to regulate as commissioner. It can easily be imagined in what way he would be likely to regulate it. It is natural for the companies, when nominating commissioners, to select men they know to be their friends and sympathizers. And even commissioners without a previous bias are easily led to take a corporation view of the situation. They are business men, and inclined to accept the "ethics of success." They are in continual touch with the companies' officers and attorneys. They find these officials exceedingly courteous and considerate, full of intelligence, great with successful conduct of large affairs, and bubbling over with money. Without any corrupt relations at all the commissioners may very naturally acquire a much deeper sympathy and friendship for the owners and managers of the monopolies they are supposed to regulate than for the masses of the people whom they do not meet intimately day by day, and who do not pay their salaries, or extend kind invitations to take dinner at the "Algonquin," or show any appreciation or knowledge of gas and electric light and street railway business, anyway. The Michigan Board of Railway Commissioners recently congratulated themselves and the public on the friendly relations existing between themselves and the



corporations they are supposed to regulate. But Governor Pingree, then Mayor of Detroit, took a different view of the situation, and with his usual emphatic directness, he said: "You have no business to have the relations so friendly."

Professor Bemis and Professor Gray have made exhaustive studies of the effects of regulation in Massachusetts in the department of gas and electricity, and I find scattered thru their writings various paragraphs which, when brought together, make the most important comment on this subject that has yet been written, I believe. Here is the substance of some of the principal passages. Professor Bemis says:<sup>3</sup>

"The reports of the Massachusetts Gas Commission give many valuable facts as to leakage, candle power, etc., but *suppress certain vital facts* necessary to the formation of a correct judgment by the people as to the reasonableness of the charges of the companies. \* \* \* It (the Gas Commission) has been so timid in its handling of the larger companies, so secretive in its locking up of the facts it gathers from the companies, since it is the only court on record that keeps secret the evidence on which it acts, and has produced the general impression of being so hostile to municipal ownership, that the people of Massachusetts do not consider the Commission idea more than a half-way measure."

"The Commission has never allowed a single competing gas company in the state, and has often granted permission to a gas company to build an electric plant in preference to an independent electric company, on the ground of the possibilities of economy in the union of such monopolies. \* \* But the

<sup>3</sup> See "Municipal Monopolies," 596 to 602, 631 to 660, and "Municipal Ownership of Gas in the U. S.," pp. 120-3.

Under the Massachusetts law the salaries and expenses of the Commissioners are paid by the companies controlled by it in proportion to their gross earnings. All gas companies are forbidden to issue stock dividends. They must keep their books in the manner prescribed by the board, and allow the latter to examine them at any time. The board must frequently inspect the quality of gas, the pressure, meters, etc. It may require as full reports of expenses and assets as it desires. It annually requires the gas and electric companies to fill out under oath complex schedules of details, but the big companies omit enough to make it impossible to "size up" their business, and the board says it can't compel the companies to return said facts. On petition of twenty consumers, or of the mayor of a city, or the selectmen of a town, the Commission must give a hearing, make an investigation and issue an opinion or order relative to the proper price of light; whether a new company should be admitted to a city; whether more securities should be issued; whether better quality of light should be supplied—in fact, almost any grievance of the consumer can be brought before the Commission, and any disobedience of its orders is turned over to the attorney general, who is expected to take proper legal action to enforce the decision of the board.



power of wealth has induced the Legislature at different times to incorporate three leading companies in Boston: The Bay State, the Brookline and the Massachusetts Pipe Line Companies. But it has now admitted the folly of its action by asking the Commission (1898) to report a plan for the consolidation of the Boston companies."

After speaking of the success of the Commission in preventing unreasonable capitalization of the gas companies outside of Boston, and even diminishing the capitalization per thousand feet in recent years, the Professor says:

"The Commission, however, has been as great a failure in its control of the large Boston companies in this matter of capitalization as in that of competition. The power of wealth at times, without necessarily any direct corruption, rendered the Commission speechless, and made the Legislature its pliant tool; and has shown the difficulty of framing any law for the regulation of millionaires in the ownership of public franchises that able lawyers cannot find a way to avoid."

Prof. John H. Gray, of the Northwestern University, who has made a most careful investigation of the Massachusetts situation thru personal study in the state and in the office of the Gas and Electric Commission, and who, of all our scientific writers, is one of the most favorable to regulation, has come to several important conclusions, of which the following is the substance: <sup>4</sup>

1. The law creating the Massachusetts Commission was drawn by the attorney of the Boston Gas Company, introduced into the Boston Board of Aldermen by his brother, and by that body introduced into the Legislature.

2. The requirement of sworn returns is "morally degrading and economically useless where no right or practice of (effective) verification exists."

3. In most cases where the right of audit and inspection is reserved, "the well-known hostility of the corporations to the exercise of this right, the bad traditions of administration and the recognized weakness of the state governments, made an effective examination practically impossible."

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<sup>4</sup> See Municipal Affairs, June, '98, and articles in the Quarterly Journal of Economics during 1898-9. Also "Municipal Monopolies," p. 653, *et seq.*

4. "The corporators often exercise a direct and powerful influence on the elections and appointments to office," with a view to keeping the governments incapable of enforcing the rights of the people.

5. Massachusetts is the only state that has ever succeeded in finding out substantially what the gas companies have actually done, and it is highly doubtful if the facts could ever have been got at except on an understanding with the Commission that it would withhold them from the people.

6. "Our age is so thoroly commercialized and the corporations have been allowed to practice all sorts of abuses and conduct their business without effective regulation so long that, in the present backward condition of political education, *the private corporations are stronger than the governments.*"

7. "No act of compensation or regulation can be effective until the companies are convinced that they will be better off under it than under present or impending legislation. \* \* \* No regulative act beneficial to the public can be passed without the consent of the gas companies, nor can it be enforced without their co-operation. \* \* \* The act establishing the (gas) Commission was drafted by and passed at the instigation of the Boston companies." (It put the power into the hands of their friends and nominees, and secured them against competing companies, at the same time that it made the people think they were getting control of the monopolies, and so tended to quiet popular movements against them.)

8. "It has been claimed that the Commission has not done all that the public expected of it; that it has even winked at the violation of law by the companies, and that, too, in particulars over which it was given special jurisdiction. While the charge is possibly true, it is equally probable that the greatest wisdom the Commission has ever exhibited is just at this point. It has probably done all that it could do and continue to exist."

The last two sentences sufficiently indicate Professor Gray's strong bias in favor of the Commission, and render the rest of his testimony all the more valuable—in the nature of admissions of the defects of that which he defends as the only means of keeping us out of "reckless socialism."

Of the Massachusetts Railway Commission Professor Bemis says that it has kept fictitious capitalization at a lower level than in other states, but that "Its weakness is beginning to appear. With growing financial strength, the Massachusetts street railways are securing enuf influence over the Legislature to cripple the Commission and secure exemption from an unpleasant amount of municipal control."<sup>5</sup> This statement is not quite accurate. The street railways have long had sufficient influence in the Legislature to accomplish almost anything they wisht, but they have not sought to cripple the Commission; on the contrary, they rely upon it confidently, and have recently got the Legislature to increase its powers. Professor Bemis recognizes this fact on the next page, where he refers to the recent encroachments of the West End, already spoken of, and to the fact that the right of cities to revoke locations has recently been taken away, and made to depend on the approval of the Railroad Commission, of which a writer in *The Street Railway Journal* for September, 1898, says: "Its wise decisions have probably done more to establish electric railroading in Massachusetts on a sound and profitable basis than any other influence." The *companies* are satisfied with the Commission, but a less "profitable basis" in some cases might be as well for the *public*.

To take power from the municipality and give it to a small commission nominated and paid and largely under the influence of the companies is a decided step in retrogression. The path of progress lies in the direction of putting more power in the hands of the people, and according municipalities full control of local franchises and monopolies.

The final and most effective comment on regulation is the fact that Massachusetts, the original home and chief example of the plan, and, as Professor Gray says, "probably the best governed of our states," is, nevertheless, the region of the most rapid growth of the movement for public ownership.

### THE REAL SOLUTION.

The real solution of the monopoly problem is public owner-

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<sup>5</sup> "Municipal Monopolies," p. 559.

ship. That alone can remove the antagonism of interest between the owners and the public, which is the root of evil, or destroy the power which belongs to private ownership of monopoly to make the antagonism effective. Both competition and regulation fail in philosophy and in fact to solve the problem of monopoly. There is nothing left but public ownership; in other words, co-operative industry, for, in case of the public utilities we are considering, co-operation of all who are interested in the service means nothing more nor less than public ownership and operation.

It is not *monopoly* that is bad, but *private* monopoly. Monopoly per se is good, because it means elimination of internal conflict between the leaders of industry. Private monopoly is bad because it retains the conflict between the owners and the public and between the employers and employed. Cross off the "private" and substitute *public*, and you eliminate all these conflicts and the evils that go with them. It is not the public water works, or electric plants, or public schools and highways that corrupt councils and legislatures, charge high rates, produce enormous profits, congest benefit instead of diffusing it, cultivate aristocracy, deny self-government and undermine democracy, ill treat employees, put out false statistics, or defy the law. It is the *private* monopolies, not the public ones, that do these things. A broader ownership, then, is the key to the situation. A man is better off when he owns a good railway, or water plant, or gas plant himself than when it is owned by another; and the same is true of a city. A private corporation will operate its works in its own interest, and, therefore, contrary to the public interest. It is part of the business ideal to-day, and a part that is well carried out, that property is to be managed in the interest of its owner. If the people want the light works, street railways and telephones run in their interest, they must *own* them.

It is better, of course, to regulate monopolies than to leave them to act out their own sweet will unchecked. It is better to fight forever than to submit to oppression. But it is a great deal better yet to remove the cause of the difficulty by *unifying* the interests involved. Public ownership will do this, and it is the only thing that can do it. Let the people

own the water works, gas and electric plants, street railways and telephone exchanges, and the interests of ownership become identical with the interests of the public. Make the change fairly, not by confiscation, or anything approaching confiscation. Apply the principle that when a change from existing laws and institutions is made for the benefit of the public, the public should bear the burden, if any is caused by the change, and not throw the cost in undue proportion on any individual or class. Be careful to get real public ownership, and not a mere change from private monopolists to private politicians. Have good civil service rules and the referendum as part of the plan. And then, if there's any reasonable degree of intelligence and public spirit in the community the problem is solved.

Excessive rates and enormous profits for a few will no longer exist, for the motive will be changed from private profit to public service. The watered stock, inflated capitalization, false accounting, discriminations, frauds and corruptions and violations of law, intended to cover or protect or render possible the schemes of profit, will fall with their cause. The change of motive will also tend to good service instead of poor, safety instead of danger, and progress instead of inertia, tho it may not always pay in dollars and cents. Public plants have no stocks to gamble with. They do not make millionaires or cause congestion of wealth and power, or debase human nature, or oppose democracy. Their tendency is to serve at cost. If there is any profit it goes to the public treasury. No aristocratic salaries are paid. Real public ownership is the very essence of democracy. And, instead of debasing human nature by conflict and corruption, and by dividing men into masters and mastered, it brings men together in a union of interest, accords to all a share in the development arising from the exercise of judgment and discretion in the control of business affairs, and affords the co-operative conditions necessary for the evolution of the highest traits of conscience and character.<sup>1</sup>

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<sup>1</sup>To carry the matter beyond appeal, it is needful, of course, to show not only that public ownership retains the good and cures the ills of private monopoly, but also that it does not entail as great, or greater evils of its own. This we shall do. We may note, *a priori*, that a change from conflict



## ADVANTAGES OF PUBLIC OWNERSHIP.

I. *Lower rates* would naturally accompany the change of aim from private profit to public service, and the fact accords with the theory.

*Roads.*—When Glasgow took over the tramways, fares were reduced one-third at once, and reductions have been continued till now the average fare is below 2 cents, and less than half the average fare collected by the private company half a dozen years ago. Our private companies have done nothing like that. We pay the West End the same 5-cent rate we did at the beginning of the decade.

The only tramway owned by the public in this country is the bridge line between New York and Brooklyn, which for years was operated by the municipalities in partnership on what was nearly the same as a 2½-cent fare (3 cents single fare and 2 for 5 cents). The ride was short, it is true, but the private companies charge 5 cents no matter how short the ride, and the investment (15 millions) was large enuf for 100 miles of ordinary cable line (it would have been watered up to 40 or 50 millions in private hands, likely), and the wages paid were very high, yet a good profit was realized. The cities lately gave the private companies a right to run their cars over the bridge, so that a passenger might cross on the same car that would carry him to his destination, but the rights of the public have been carefully guarded. If New York and Brooklyn had been ready for the move, it would have been better for them to have united the services by taking over the private railways and

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to co-operation, from secret fraud to open dealing, from private profit to public service, from congestion of benefit to diffusion of it, from speculation and gambling to quiet certaintly, from defiance of law to obedience, from danger to safety, from watered stock and false accounts to honest capital and truthful records, from denial of democracy to government by and for the people, from conditions tending to the debasement of human nature to conditions tending to the elevation of human nature, cannot, in the very nature of things, be attended by evils greater than those it cures, otherwise devolution would be better than evolution, retrogression better than progress. There is nothing quite perfect in this world, unless it may be the blue sky or a beautiful flower, and even public ownership has its difficulties, but they are virtues and charms compared with the evils of private monopoly. We shall find that philosophy, history and experience unite in proving that, even if all the objections the monopolists and their sympathizers have ever raised against public ownership were admitted to be true, it would still, on the whole, be vastly superior to private monopoly.

When we look closely at the matter we shall find there is no difficulty at all with public ownership; the difficulty lies in the process of attaining public ownership. The main trouble is to *obtain* REAL public ownership, and the chief sophistry of objectors lies in mistaking a change from one form of private ownership to another form of private ownership for a change to public ownership. The difficulty has been and is being overcome in many, many cases, and can be overcome in every case where the people come to understand the facts, and have civic patriotism enuf to unite in a truly co-operative undertaking for the good of all concerned. The sophistry is easily exposed, and when once understood the matter becomes very clear.

The simple question is: Shall the city be run for the benefit of the people or for the benefit of a few individuals? Shall the great franchises and monopolies, the value of which has been created by the people, belong to a few for their private profit, or shall they belong to the people for the public good? Shall the streets belong to the community that builds them and gives them value by its presence and its industry, or shall they be turned over to little groups of stockholders for corporate profit?

let the people have a 3-cent fare all over Greater New York; but in the present state of public education the lease is probably as good a move as could be had.

*Bridges.*—There is a bridge at St. Louis owned by the Goulds, and the contrast in the charges, etc., on the millionaires' bridge and on the bridge owned by New York and Brooklyn is one of the most enlightening it has been my fortune to discover.

#### The Two Bridges. Charges for Crossing.

Private Bridge.	Municipal Bridge.
St. Louis Bridge (Cost \$13,000,000, bought by Gould interests for \$5,000,000.)	Brooklyn Bridge, (Cost \$15,000,000.)
On steam cars 25 to 75 cents per passenger.	On L roads 3 cents (2 fares for 5 cents) if you simply wish to cross the bridge—if you come from a distance or are going beyond the bridge it costs nothing to cross it either in the L cars or the surface cars—the ordinary car fare takes you over without extra charge.
Street car fare 10 cents, 5 cents for bridge.	Foot passengers .....Free.
Foot passengers ..... 5 cents.	Vehicles, one horse... 5 cents.
Vehicles, one horse... 25 cents.	Vehicles, two horses ..10 cents.
Vehicles, two horse... 35 cents.	Bicycles .... .....Free.
Bicycles ..... .. 10 cents.	

Before the recent lease giving the companies the use of the Brooklyn Bridge the public operation realized more than enough to pay expenses and interest, on a  $2\frac{1}{2}$  cent fare, etc. (as above), paying the car men \$2.75 for an 8 hour day. The elevated railway companies running over the bridge pay the car-men an average of \$2 for ten hours, and some of the men receive less and work longer, so I am told by the men themselves. On the electrics running over the St. Louis bridge the men work 12 hours, for which the conductors get \$2.25 and the motormen \$2.

Under the lease the elevated roads pay about \$100,000 a year for the use of the bridge, and the trolleys 5 cents a car, a fraction of a cent per passenger. The franchise charges were made very small in order to arrange matters so that no extra fare for crossing the bridge would be collected from those paying the ordinary 5 cent car fare, thus making the bridge free for passengers coming from or going to a distance, and more than free to those who simply cross it in the bridge cars, since a ride in the cars anywhere else for any distance, no matter how short, costs a nickel instead of the  $2\frac{1}{2}$  cent bridge rate—nothing for the bridge and half price for the car ride. The arrangement is good for the people and good for the companies, as it increases their traffic. It could only be improved by larger payment from the companies, or lower fares in general, or, best of all, public ownership of the street railways as well as the bridge.

The net earnings of the St. Louis bridge are  $1\frac{1}{4}$  millions a year, or 25 per cent. on the Gould investment, and 12 per cent. on the im- pairable capital (the excavating of the tunnels, etc., will never have to be done over again). The St. Louis charges may be objected to, not only as extortionate, but as discriminating. A passenger who buys a ticket in New York or Philadelphia to St. Louis

or beyond has to pay 75 cents for crossing the bridge, whereas if he buys a ticket to East St. Louis and then crosses the bridge in a railroad train it will cost him only 25 cents, or 10 cents if he crosses on a street car.

The St. Louis bridge is managed for private profit; the Brooklyn Bridge is managed for public service, the aim being to make the bridge as useful to the people as possible.

*Telegraph and Telephone.*—When England bought out the private telegraph companies, in 1870, and made the telegraph part of the postal service, she reduced the rates one-third to one-half.<sup>1</sup> Our own government has had an experience with the telephone which is even more emphatic tho on a smaller scale. In 1894 the Department of the Interior paid the Bell company in Washington \$60 to \$125 each for 65 telephones, and employed a lady to attend the main exchange at \$600 a year, making the total cost average \$75 per phone per year. In 1895 the Department put in its own phones, and the cost of operation and repairs is only \$6.43 per phone, with \$3.80 for interest and depreciation, making a total of \$10.25 per phone year for what used to cost \$75 under the Bell regime—the cost under private ownership being 7 fold more than under public ownership.<sup>2</sup>

The ordinary Bell rates for towns are \$24 to \$36 for residences and \$48 to \$75 for business places. For large cities the usual rates are \$90 to \$240. With municipal ownership or co-operative association we could have excellent telephone service at less than half these rates—50 cents to \$2 a month for small exchanges in towns and country districts, and \$2.50 to \$5 in large cities.<sup>3</sup>

Trondhjem, the third city of Norway, with 30,000 people, has a municipal system with the following rates:

	Per year.
For a business place within 1½ km. (about one mile) of central station .....	\$16.65
For a second business connection by the same person or firm .....	13.31
For a private house, same distance.....	8.33
For each 100 meters beyond 1½ km.....	1.37

The town builds all lines, supplies the instruments and maintains the system. With 780 exchange lines the average rental was \$13.25

<sup>1</sup>The Telegraph Monopoly, Arena, Vol. 17, pp. 9-29.

<sup>2</sup>See p. 350 of Municipal Monopolies for a complete statement of the facts as given to me direct from the books of the Department. In the same chapter many facts are collated relating to the low cost of public or co-operative telephone service.

<sup>3</sup>Contrary to the ordinary rule of cost, the telephone service becomes more costly as it increases in density, a fact that is due to the complexity of large exchanges and the great increase in the number of calls per phone where each subscriber may communicate with any one of many thousands, instead of being limited to a few hundreds, or a few dozens. Even in Chicago or New York, however, responsible capitalists have offered to establish exchanges at \$30 to \$50 for residence and \$75 to \$100 for business phones. And with municipal ownership or co-operative association, eliminating private profit, considerably lower rates could be made. The cost of construction is \$40 to \$70 per subscriber in towns, and \$75 to \$200 in large cities. The yearly operating cost is \$8 to \$12 per subscriber in small exchanges.

a year. Operating expenses, \$8 per phone; fixed charges ( $4\frac{1}{2}$  per cent. interest and 5 per cent depreciation), \$4.35; total cost, \$12.35. The subscribers speak to surrounding towns (there are 11 of them) within 50 miles at the rate of 4 cents for 5 minutes. The non-subscribing public pays  $6\frac{1}{2}$  cents per conversation interurban, and  $2\frac{1}{2}$  cents for a local conversation. Each subscriber makes an average of 8 or 9 calls a day, so that the cost of a local conversation to a subscriber is about  $\frac{1}{2}$  a cent. The Trondhjem telephone receipts afford a surplus, after covering all working expenses, interest on the capital invested, a reserve of 5 per cent. a year on the capital, and insurance of employees against death, accident and sickness.

Stockholm, Sweden, with 290,000 population, has a public exchange with a \$14 entrance fee, \$16.66 per year for residence phone and \$22 $\frac{1}{4}$  for a business place—an average rate of \$20 per subscriber, with metallic circuit, underground wires, interurban communication free within a radius of 43 miles, telephoning telegrams and telephoning messages to be written down and delivered by messenger at low cost. The Bell Company, bought out by the government, was charging \$44 for far inferior service. The public telephone of Luxembourg, 44 by 30 miles, makes a uniform yearly charge of \$16, and each subscriber has the free use of all interurban wires, and can talk all over the Duchy. Besides the special services just mentioned, the subscribers can telephone a letter (that is, he can telephone matter to be written down and posted as a letter) for 2 cents plus postage. Switzerland also has an excellent system, metallic circuit, at a moderate charge, \$8 plus 1 cent for each call, the average total rate being \$15 per subscriber in Zurich and other cities.

In France, when the government took possession of the telephone lines in 1889, the rates were at once reduced so that a comparison shows the charges of the private companies to have been 50 per cent. more than the public rates in Paris, and 100 per cent. more in other cities, except in Lyons.

In Sweden there are over 160 co-operative telephone exchanges, and others are dotted over Norway and Finland. The annual assessments in these co-operative exchanges for working and maintenance are frequently as low as \$6 to \$8, rising in a few places to \$16, and averaging about \$10 a year for the whole list of towns from which I have been able to get returns. The public and co-operative exchanges have brought out the facts about the business so that even the local private companies, in some parts of Europe, give the people very low rates.

In this country there are a few co-operative plants which show what can be done by the elimination of private profit and monopoly methods. In Fort Scott, Kansas, the members of the Mutual Company pay \$1 a month. The operating expenses are \$12 per phone, and the construction cost \$50 per line. Any person can be a member who will take a share of stock. The railroads, express companies, etc., would not become members, but were willing to pay



a good rental, so the company has a number of subscribers on rentals above \$1.

At Grand Rapids, Wisconsin, the Bell Company was charging \$36 for residence and \$48 for business places, and refused to lower the rates. A co-operative company was formed, each member taking one and only one \$50 share of stock. And in the company's second year (1897-8) with 186 lines (costing \$50 each for the total construction and equipment account), the expense to members was 50 cents a month for residence and \$1.75 for business.<sup>4</sup> The first president of the company, Mr. John A. Gaynor, writes me that the cost to subscribers has now been reduced to 25 cents a month for residence and \$1.50 for business places. There are now 220 phones in the exchange. The total investment per phone is \$43. The operating cost is about \$9 per phone, including a repair allowance sufficient, Mr. Gaynor says, to cover depreciation. Interest would add \$3 per phone year at the rate (7 per cent.) paid by private borrowers in Grand Rapids.<sup>5</sup> If all those having telephones were members of the company the rates would probably be about \$6 house and \$18 business, or \$8 and \$18, perhaps, if the co-operators wished to pay in 5 per cent. on the investment as a surplus or improvement fund. Under public ownership, free of debt, \$6 and \$18 would cover the total cost according to the data sent me by Mr. Gaynor.

When the co-operative exchange was organized the Bell folks lost their subscribers, but in 1897 began to ask the privilege of putting in free phones. They wanted to get a big exchange, which would be so valuable to business men that they would have to leave the home company. When the people saw that the Bell was scheming to kill the co-operative, they unanimously ordered out the free phones.<sup>6</sup>

*Water.*—We have become so accustomed to the idea that the water supply is naturally a public affair, that many overlook the fact that in the early part of the century the movement for public water works was as much a matter of opposition and criticism as the

<sup>4</sup> There were 100 members and 86 renters all paying \$1.50 to \$2.50 per month. A monthly dividend of 1½ per cent. on the stock brought the cost to members down to the figures stated in the text. The surplus earnings in 28 months were \$3,000 which, with the \$5,000 from sales of stock, paid for the plant, except \$1,000.

<sup>5</sup> The present rates are \$1 residence and \$2.25 business, with 1½ per cent. monthly dividends to stockholders. Mr. Gaynor thinks residence rates will not go any lower, but says that the company has \$100 a month surplus, which should be used in lowering business rates. He advocates putting the business rate at \$1.50 and the dividends at 1 per cent. per month.

<sup>6</sup> Some local private companies, independent of the Bell, give very reasonable rates. There is one in Elyria, Ohio, that reports a construction cost of \$40 a phone and 12 per cent. profit on monthly rates of \$1 residence and \$2 business. One in Elkhart, Indiana, reports a construction cost of \$60 per subscriber, operating expenses of \$10 per phone per year, and 16 per cent. profit with 300 phones at \$1.50 and \$2 a month. One in Manhattan, Kansas, has a construction cost of \$45 per line, \$9 operating expenses and 12 per cent. profit, with \$1 a month each for 170 house lines, and \$2 a month each for 50 business phones. A small local company is a very different matter from a big monopoly that can fight to the death in one city, while it draws its support from other cities. The reasonable rates are found in places so small that Bell interests have not cared to monopolize them, or where there is civic patriotism and common sense enough not to remain in subjection to the great monopoly.



movement for public street cars is now, and the history of the water service, with its powerful testimony for public ownership, is too much neglected. The very fact that public water supply has come to be looked at as the natural order of things, is in itself strong evidence that the public service has proved its case. But a few of the vast mass of specific proofs have a right to a place in this investigation.

In Schenectady, New York, just before the water system became public, the family rate was \$9; public ownership reduced the rate to \$7, and still there was a good profit. In Auburn, New York, the family rate was reduced from \$8 to \$6 when the city bought the plant in 1894; but the consumption increased and the operating expenses decreased to such an extent that the profits were larger than ever. In Syracuse the family rate was \$10 under private ownership. Public ownership reduced it to \$5. The meter rates have also been reduced. The reduction of rates by the public works saved the citizens \$100,000 last year, according to the estimate of the Chief Engineer. We have seen that Randolph secured a \$4 rate thru a public plant where private enterprise demanded a \$10 rate.<sup>1</sup> For the public water works of Indiana the cost per family is found to be less than half the revenue per family received by the private works.

In 1890 Mr. M. N. Baker collated the rates in 318 public and 430 private water works in every part of the United States. The results speak for themselves. The ordinary family rate is the first charge, the price of admission of water to the premises. The total family rental is the ordinary first charge, plus the rates for water closet, bath tub, horse and carriage, garden hose, etc.

#### Charges for Water.

		Ordinary Family Rate	Total Family Rentals	Cost of Works per Family
Maine.....	{ Public works .....	5	13.5	119.9
	{ Private works .....	7.8	26.73	181.3
Massachusetts...	{ Public works .....	6.07	24.74	107.04
	{ Private works .....	7.15	31.16	101.42
Rhode island.....	{ Public works .....	5.5	28.85	223
	{ Private works .....	8.0	38.	193
Connecticut .....	{ Public works.....	5.1	18.66	98.82
	{ Private works .....	6.05	25.87	87.55
New York.....	{ Public works.....	6.01	19.43	112.33
	{ Private works .....	7.53	29.18	164.52
Pennsylvania ....	{ Public works .....	6.75	21.45	85.8
	{ Private works .....	7.66	24.63	106.3
Virginia .....	{ Public works.....	6.	23.44	82.2
	{ Private works .....	8.5	26.43	82.1
est Virginia...	{ Public works.....	6	21.5	93
	{ Private works .....	8	29	79
Georgia.....	{ Public works.....	6.66	27	44.5
	{ Private works.....	10.58	34.75	57.5
Texas.....	{ Public works.....	9.54	31.9	48.52
	{ Private works.....	16.43	49.41	70.74
Oregon.....	{ Public works.....	13.	37.2	72.97
	{ Private works.....	18.5	68.25	53.47
Nova Scotia.....	{ Public works.....	5.5	16.75	81.98
	{ Private works.....	10.2	56.2	155.

<sup>1</sup>See section 1 for this and other facts relevant here.

I have made some calculations as to the effect due to the difference in the cost works as follows: On the ratio between operating expenses and fixed charges that prevails in Nova Scotia, the extra capital in the private works, if it is real cost, might justify \$12 addition to the public total rental, but not an addition of \$40. In Maine an average of the statements of the plants reporting expenses shows fixed charges, interest, depreciation and taxes ranging from  $\frac{3}{4}$  to 6 times the operating expenses, and averaging 4 fold the operating cost. This would justify an addition of \$5.5 to the total rentals of the public works *if* the reported cost of works for the private companies is *real* cost. In New York the reported difference in cost of works would justify an addition of about \$7 to the public total rentals. It is not safe, however, to deal with the cost of works as stated for private plants except as a *maximum*. The companies are not apt to *understate* the cost, but they are very apt to *overstate* it. In Pennsylvania the difference of construction cost, if truly stated, would about equalize the rates, but in Massachusetts, Rhode Island, Connecticut, West Virginia and Oregon the difference in construction cost would intensify the difference in rates. In Oregon the total rentals were \$37 public and \$68 private, or about 60 per cent. more for private rentals, though the public works cost nearly 40 per cent. more per family than the private works. The Oregon reports show fixed charges averaging five times the operating cost, so that the average private company total rental would be \$90 instead of \$68 if the average cost of the private works were as high as that of the public works and the companies charged on the higher capital in proportion to their charges on the present capital. With this equalization of capital charges the contrast would be \$37 total rentals for public works and \$90 total for the private works.

In Massachusetts Mr. Baker found the total water rentals averaged \$24.74 for the public works and \$31.16 in the private plants, altho the cost of the works was less per family in the private plants than in the public. Taking the Northeast and Middle States together the total rentals average 30 per cent more in private than in public plants, and the investment per family is about the same. The last sentence holds true substantially<sup>2</sup> for the entire United States, aside from the Pacific coast, there the private rentals average 71 per cent. more than the public, but the investment is much larger in the private than in the public plants, tho a great part of the excess is due to irrigation works. Excluding these and *taking the United States as a whole, the investment per family is about the same in public as in private water works, yet the total rentals*

<sup>2</sup> In the United States, outside of the Pacific States, the private works cost  $3\frac{1}{2}$  per cent. less per family and charge  $31\frac{1}{4}$  per cent. more than the public works. The Syracuse Commissioners in 1889 found that the private works in 129 towns charged 37.3 per cent. more than the public works in 124 towns investigated. Census Bulletin 100, July, 1891, finds the water charge in 133 cities owning their works as \$19.50, against \$23.43 in 112 cities with private works.

average 43 per cent. more per family in the private plants than in the public.<sup>3</sup>

The Water Manual of 1897 states the rates for 1250 cities and towns. Mr. Baker has not analyzed them, but an assistant has worked up a few states for me with the following results:

Water Rates, 1897 Manual.

	Ordinary Family Rate		Total Family Rentals	
	Private	Public	Private	Public
Massachusetts .....	7½	5¾	27	23½
Illinois.....	8	5½	26¾	15½
Texas .....	15½	9¼	40¼	23
Washington.....	17	10	40	25

In Washington the cost of works per family is a trifle more for public than for private plants (\$167 to \$164). In Texas the reported costs are \$102 public and \$117 private. If the lower capital were brought up to the higher and the usual ratio between operating expenses and fixed charges holds good, the difference would add about \$1.10 to the family rate and \$3 to the total rental, making the real contrasts about \$15 private to \$10 public and \$40 private to \$26 public. In Illinois the cost of works is reported to be \$79 per family in public works and \$95 in private works, making the real contrasts \$8 private to \$6 1-3 public, and \$26¾ private to \$18¼ public. In Massachusetts the cost of works appears to be \$225 per family in public works and \$139 in private works, making the real contrasts \$11 private to \$5¾ public, and \$40 private to \$23½ public.

It must be remembered that the contrast of rates by no means expresses the full difference between public and private ownership of water works, because in addition to the rates charged consumers the private companies receive hydrant rentals and fees for street service, etc., from the city treasury, while public plants, as a rule, collect nothing from the city for fire protection, street watering and sewer flushing, but render these services free, and often pay in a profit besides to the public funds. The full contrast would be shown by comparing the *total revenue* per family in private plants with the *total cost* per family in public plants (including lost taxes, depreciation and interest actually paid), the conditions as to population, cost of works, supply, etc., being ascertained, so that

<sup>3</sup> "We find the average total family rate for 318 public works \$21.55 and for 430 private works \$30.82." (Baker's Manual of American Water Works, 1890, p. xlix.) Mr. Baker further says: "In every state and territory of the Union and in every province of Canada, private works show a higher total family rate than public." On p. lii, he says in substance, "The raising of money by taxation to pay interest on the bonds of the public plants does not account for the lower rates charged by public works, such taxation being offset by the hydrant rental, which is almost invariably paid to private companies, and the money for which is always raised by taxation. Again, he says (same page), "There is but one conclusion. Private works charge as high rates as they can in consistency with business principles."

plants operating under similar conditions may be compared or due allowance made for difference of condition where level comparison is not possible. The idea should be to eliminate the effect of other differences in order to determine the effect of difference in ownership.

I asked an assistant to take the states of Pennsylvania and Illinois, find the revenue per family in private works and the cost per family for public works (including operation, with depreciation and taxes), so far as the Water Manual and the population tables supply the needful data, and put in opposite columns places resembling each other, so far as possible, in population, consumption and cost of works. The accompanying table shows the results, with the addition of a contrast I met with in Maine. The operating expenses under complete public ownership usually run from one-half to three-fourths of the total cost. Depreciation and taxes are estimated at 2 per cent. on the entire cost of the works. There is no interest when public ownership is *complete*. But to illustrate the difference that is made by debt or incomplete ownership we may note that interest adds \$2½ per family in Bethlehem, \$4 in Media, \$2 in Doylestown, \$3 in Hollidaysburg, \$2 in Shippensburg, etc. In Moline interest adds \$1 per family, \$1.71 in Taylorsville, \$1 in Savanna, \$2 in Aurora, \$1 in Evanston, etc., an average of \$1.33 per family *actual* interest for all the Illinois public plants in the table, or \$2.50 per family if interest be *estimated* at 4 per cent. on the *total cost of the works*. The figures in parenthesis at the right and left indicate the ordinary family rate or initial charge. It will be noted that the difference between the total revenue per family in private works and the total cost per family in public works is often much greater than the difference in the initial family charges. This is due to the saving by public works of what goes to private companies for fire protection, street sprinkling, etc., and for profits on commercial service.

PRIVATE WATER SUPPLY.			Total Revenue per Family per Year Under Private Ownership	Total Cost per Family per Year Under Complete Pub- lic Ownership.	PUBLIC WATER SUPPLY.		
(13)	Franklin,	Pa.	\$10½	\$4	.....	Bethlehem (7½),	Pa.
	Jermyn,	"	14	4	.....	Media,	"
	Honesdal,	"	12	3	.....	Doylestown,	"
	Kane,	"	13	3	.....	Hollidaysburg (5),	"
(12)	Lechburg,	"	7½	2	.....	Shippensburg,	"
(10)	Tionesta,	"	9½	6	.....	East Greenville (5),	"
(10)	Jenkintown,	"	28½	5	.....	Beaver,	"
(10)	Langhorne,	"	25	2	.....	Roaring Spring,	"
( )	New Castle,	"	8½	4	.....	Bradford (4½),	"
(16)	McDonald,	"	18½	3	.....	North East (5½),	"
	Freeland,	"	12¾	2.8	.....	East Stroudsburg,	"
(7½)	Lincoln,	Ill.	18	4½	.....	Moline (6¾)	Ill.
(10)	Mount Vernon,	"	10	4½	.....	Taylorsville,	"
(8)	Ellingham,	"	5½	2	.....	Savanna,	"
(8)	Alton,	"	4½	3	.....	Lexington (6),	"
(8)	Sterling & R. F.	"	8.7	3	.....	Elgin (6),	"
(8)	Kankakee,	"	7.9	4½	.....	La Salle,	"
(6½)	Chillicothe,	"	9.8	6.4	.....	Evanston,	"
(8)	Cairo,	"	10½	5½	.....	Rock Island (8),	"
(10)	Oak Park,	"	20	4	.....	Aurora (1),	"
	Portland,	Me.	19	5	.....	Lewiston,	Me



In most of the larger places and many of the smaller places having private works, the companies withhold a part or the whole of their revenue data. This greatly limits the number of possible comparisons. For example, Springfield, Illinois, has public works serving the people at a cost of \$5 per family. The places having private works that would naturally be compared with Springfield on the basis of population, etc., are Peoria and Quincy. Both have higher initial rates and much smaller consumption than Springfield, but the revenue statement is incomplete. The Peoria company states only the commercial receipts, and the Quincy company only the revenue from the city treasury.

These columns by no means represent the extremes. In some Pennsylvania towns, where the consumption is very large, owing probably to mining use, the revenue per family rises to \$40 or more, while in several Illinois towns having public works the cost per family is below \$1.50. For example, Hillsboro has an average daily consumption of 125 gallons per family, and a yearly cost of \$1.47 per family, including depreciation and taxes, with \$1.20 for actual interest (which is about 4 per cent. on the cost of the works), a total of \$2.67, interest and all.

The consumption in Oak Park is not given. That of Alton is 400 gallons, against 250 in Lexington. In all the other Illinois comparisons the consumption per family is greater with the public than with the private works. The cost of the works *reported* by the private companies is generally somewhat larger than the cost of public works, whether it is *really* larger is in doubt. In some cases the cost of works is much larger than with the opposite private works, even accepting the capitalization of the private companies—Bethlehem, Shippensburg and Bradford for example.

Brookline, Massachusetts, has a public water system, while Hyde Park, with about the same population, has a private plant. In Brookline the family rate is \$3 and the total family rental amounts to \$20½. In Hyde Park the family rate is \$6 and the total family rental \$30. In Milford and Hopedale, having also nearly the same population as Brookline, the private company charges \$8 for the ordinary family rate and \$33 for the total family rental. Yet the cost of the works per family and per thousand gallons of output is very much greater in Brookline than in the other cases. Nevertheless the Brookline receipts are three times the operating expenses, and yield a profit of about 3 per cent. on the value of the plant, after allowing for depreciation, besides supplying public buildings, streets, fire protection, etc., free.\*

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\* Both Brookline and Hyde Park are supplied by driven wells and pumping. The Milford Company has wells and river and pumps.

There are other public plants with still lower rates than those of Brookline. For example, New Bedford, with \$2.50 ordinary charge and \$12.50 total family rental, and Holyoke, with \$4 ordinary and \$13 total. These places, however, have 3 times the population of Brookline. Holyoke is helped out by gravity. The New Bedford revenue from consumers is 2½ times the operating cost and sufficient to cover operating expenses, depreciation and interest actually paid, amounting to about 2 per cent. of the cost of the works. With what the city pays for street service, etc., the plant yields a profit of 3 per cent. on its value, above the cost of operation and depreciation.



In the winter of 1892 a statement was made by Henry R. Legate, of the *New Nation*, before a legislative committee at the State House in Boston, to the effect that a committee of the London County Council had made a thoro investigation of the subject of municipal water supply, and in their report of October, 1890, stated, among other things, that the average daily water supply of Glasgow, Scotland, was 49.84 gallons for each person, while in London it was but 29.91 gallons; yet the rate in Glasgow for a house of the rental value of \$250 was \$7.25, and in London for a house of the same rental value it was \$19.18, or  $2\frac{1}{2}$  times as much for  $\frac{2}{5}$  less water. And in Glasgow one charge pays for bathroom and other items, while in London extra charge is made for all these conveniences. The committee recommended that the city buy the works, though the cost was estimated at \$167,500,000.

*Gas.*—In 1890 the private gas company in Hamilton, Ohio, was charging \$2 per thousand for gas of poor quality and refused reduction, protesting that it could not sell for less. It also refused to sell out at a reasonable figure, and declined to arbitrate. So the city built works of its own, charged \$1 a thousand for good gas and made a profit. When the city took possession of the gas works in Charlottesville, Virginia, in 1876, the rate was reduced at once from \$3.50 to \$3, then to \$2.25 in 1886, \$1.50 in 1887, and now the rate is \$1, and the total cost to the people is 83 cents per thousand. Danville, Virginia, reduced the rate under municipal management from \$4 to \$1.50 in 1890, and the present total cost to the people is 88 cents. When Wheeling took the gas works, in 1870, the private rate was \$3.50. A large reduction was made at once, and now the rate is 75 cents, with a total cost varying somewhat from year to year, but averaging about 54 cents for the years whose figures are at hand. Henderson, Kentucky, reduced from \$1.50 to \$1.25 in 1891, and now charges \$1. In Indianapolis a few years ago a citizens' co-operative association secured gas at less than half the charge made by the Standard Oil gas interest in Toledo or in Dayton (\$54.8 annual rate in Dayton against \$26.8 in Indianapolis). Toledo put in a municipal plant, and in spite of all difficulties, the million of extra cost due to the Standard Oil war upon the city and the gradual failure of the natural gas wells, the plant has saved the people far more than its cost by its own service at low rates and by bringing down and keeping down the Standard rates.<sup>5</sup>

The municipal plant in Richmond delivers gas at the burner at an operating cost of 57 cents a thousand. Taxes and depreciation bring the cost up to 70 cents.<sup>6</sup> The private gas company of Washington, D. C., better situated than the public works of Richmond,

<sup>5</sup> Lloyd, p. 360.

<sup>6</sup> Interest on the value of the plant would bring the total up to 82 cents. But there is no need to add interest, since the plant paid for itself long ago. A private company must add interest, but a plant completely public—owned by the city, clear of debt, has no interest. The people of Richmond are getting gas at a total real cost of 70 cents, while Washington pays \$1.10 to \$1.35. The people of Washington could get their gas at lower cost than Richmond if they had municipal gas works.

refused to come lower than \$1.25 till 1896, when Congress forced a reduction to \$1.10. In the large suburb of Georgetown the price is still \$1.35, about half of which probably is profit in the neighborhood of 20 per cent. a year on the investment.

From Brown's Gas Directory for 1891 and Professor Bemis' studies of municipal plants in the same year ("Municipal Ownership of Gas in the United States") it appears that there were eight private gas companies in Virginia and four municipal plants. All but two of the private companies charged from \$2 to \$3, and the average for the eight companies *was* \$2.11. Three of the public works charged \$1.50 and one of them \$1.44, and the average *cost*<sup>7</sup> to the people, operating expenses and all fixed charges *was* \$1.17. In West Virginia there were five private companies and one municipal plant. One of the private companies charged \$1, another \$1.60, and the other three \$2 to \$2.25. The public works in Wheeling charged 75 cents per thousand, and the total cost to the people was 50 cents, there being no debt and no interest to pay, operating cost, depreciation and taxes were the whole expense. The public works in Philadelphia charged \$1.50, but 60 cents of it was clear profit in the city treasury above the cost of operation and fixed charges, so the people really got their gas for less than \$1. Of the 89 private companies in Pa., 26 charged \$2 and over, 55 charged over \$1.50, 8 charged \$1.50, and only 8 made a rate as low as \$1, and they were all located where coal was much cheaper than in Philadelphia. During the whole history of public operation in Philadelphia the cost of gas to the people was much lower than in Baltimore, Washington or New York. In Kentucky none of the 18 private companies sold as low as the public works in Henderson. In Ohio there were two public plants. The works in Hamilton supplied gas at a total cost of \$1 (30 cents of it being interest), and the works in Bellefontaine (free of debt) supplied gas at a total cost of 63 cents per thousand. Of the 43 private companies only 5 made so low a rate as \$1. The rival company in Hamilton was forced down by public competition. In Cleveland certainly, and in the other \$1 cities probably, the charge had been forced down by the power of the City Councils, under the Ohio law respecting city regulation of prices.

It appears, therefore, that every one of the public gas works made a splendid record as compared with the private plants in its own locality.

The present cost of gas in public works is shown in the following table:

<sup>7</sup> Professor Bemis, including the cost of permanent improvements and omitting depreciation, gives figures which average \$1.31 for the four Virginia cities, with the interest actually paid in 1890. It seems fairer, however, not to take the expense of improvements in place of depreciation, except where one is shown to be the substantial equivalent of the other, which was not the case with the four Virginia cities in 1890. Estimating depreciation at 2½ per cent. of the investment and taxes at 1½ per cent., the average total cost in the four Virginia cities was \$1.17, including the interest actually paid by Danville and Charlottesville, the Richmond and Alexandria plants being free of debt. If all had been free of debt, the average total cost would have been \$1.08.

Present Cost of Gas	A	B	C
	Operating cost per thousand in burner (in cents)	Total cost* per thousand (in cents)	Selling Price
Richmond, Va.....	57	70*	\$1.00
Charlottesville, Va.....	65	83*	1.00
Danville, Va.....	69	88*	
Alexandria, Va.....	76	92*	1.33
Wheeling, W. Va.....	45	56*	.75
Bellefontaine, Ohio.....	54	70*	.87 av.
Hamilton, Ohio.....	43	80	.80
Henderson, Ky.....	74	90*	1.00

\* Column B represents the actual cost to the citizens, operating expenses, depreciation and taxes, and in the case of Hamilton interest also (26 cents of the 80)—all the other plants have more than paid for themselves out of the earnings and the people have no interest to pay. The addition of interest would bring the cost in Richmond up to about 82 cents, and in Wheeling to 67 cents, etc. Taxes run from 3 to 6 cents per thousand; depreciation 7 to 12 cents. The figures of column B are above the truth in several instances, perhaps in all, because the superintendents have a habit of including the cost of improvements and extensions, with operating expenses, which makes the first column really include an item that partly or wholly offsets depreciation and sometimes more than overbalances it. Wherefore the depreciation added to column A puts some of the figures of column B above the fact. The small size of most of the places and the consequent small output, the use of coal gas and the high price of coal in Virginia puts the cost of production above that which obtains in our larger Northern cities.

The *Philadelphia* works are leased to a private company. The *Toledo* plant we have spoken of. *Fredricksburg*, Virginia, began with public gas in 1891. The price has fallen from \$3, under private ownership, to \$1.50 under public management, and the consumption has more than doubled. The total cost to the city, including interest, is \$1.33. *Duluth* has recently bought the gas and water plants. The charge under private ownership (1897) was \$2 per thousand, under public ownership (1898) it is \$1.50, and \$1 for fuel gas. In Massachusetts, *Wakefield* and *Middleborough* began with public gas in 1894, and *Holyoke* and *Westfield* have recently voted to follow their example. In *Wakefield*, before public ownership, the charge was \$2.19, afterward \$1.75, which covers all expenses, including interest, in spite of the heavy capitalization (\$11.37 per M), due to the fact that under the imperfect laws of Massachusetts the city was forced to pay the private company for its works more than double the cost of duplication.

In England the public works sold gas for 82 cents in 1889, and made a profit of 22½ cents above interest and sinking fund, so that the real cost to the citizens was 60 cents, while the private companies charged 90 cents. In 1897 the public works received an average of 75 cents a thousand, including 18 1/3 cents profit, wherefore the real cost was not over 56 cents, while the private companies charged an average of 86 cents.<sup>a</sup>

<sup>a</sup> The cost in the holder in English plants of large output is about 30 cents, and distribution 6 to 7 cents in both public and private plants, being

*A few contrasts.* Bringing together a few crisp contrasts from preceding paragraphs and adding some new ones we have the following:

### A Few Crisp Contrasts.

<i>Water and Gas Charges</i>	<i>Under Private Ownership</i>	<i>Under Public Ownership</i>
Ordinary family charge for water:		
Syracuse, N. Y.....	\$10	\$5
Auburn, N. Y.....	8	6
Randolph, N. Y.....	10	4
Average in Indiana.....	9 <sup>3</sup> / <sub>4</sub>	4 <sup>2</sup> / <sub>3</sub>
Average in Illinois.....	8	5 <sup>1</sup> / <sub>3</sub>
Average in Massachusetts.....	7 <sup>1</sup> / <sub>2</sub>	5 <sup>3</sup> / <sub>4</sub>
Average in Texas.....	15 <sup>1</sup> / <sub>2</sub>	9 <sup>3</sup> / <sub>4</sub>
Average in Washington State.....	17	10
Cost of gas per thousand:		
Hamilton, Ohio.....	\$2	\$1
Duluth.....	2	\$1 <sup>1</sup> / <sub>2</sub> and \$1
Wakefield.....	2 <sup>1</sup> / <sub>5</sub>	1 <sup>3</sup> / <sub>4</sub>
Frederickburg.....	3	1 <sup>1</sup> / <sub>2</sub>
Washington (priv.).....	1.25	Richmond (pub.) .70
Pittsburg (priv.).....	\$1.20 and \$1 net	Wheeling (pub.) .75 and .56 net
Average in Virginia for '91.....	2.11	1.17
Average in W. Virginia for '91.....	1.80	.50

<i>Electric Light and Telephone.</i>	<i>Private Charges</i>	<i>Public Cost</i>
Cost of electric light in private plants:		Cost of electric light for like service by public plants in the same years:
(1893-4) Pittsburgh, Pa.....	\$195	Allegheny, Pa..... \$83
(1890-7) Troy, N. Y.....	146	West Troy, N. Y..... 75
(1896) Buffalo, N. Y.....	127	Detroit..... 83
(1897-8) Buffalo, N. Y.....	100	Detroit..... 73
Cost per telephone:		
United States Department of the Interior.....	\$75	\$10 <sup>1</sup> / <sub>4</sub>
Grand Rapids Wisc. (priv.).....	{ \$36 house \$48 business	Grand Rapids (co-op.) { \$6 house { \$9 av. cost of production per phone, aside from interest which would add \$3. \$18 business
Washington (priv. metallic, unlimited) (225,000 population).....	{ \$100 house \$125 business	Stockholm (priv. metallic, unlimited)..... { \$16 house (250,000 population) { \$22 business
Schenectady, N. Y. (priv.).....	{ \$36 house \$66 business	Trondhjem, Norway, (municipal system)..... { \$81 <sup>1</sup> / <sub>2</sub> (39,000 population) { \$16 <sup>1</sup> / <sub>2</sub>

<i>Telephone Conversation Charges</i>	<i>Private Ownership</i>	<i>Public Ownership</i>
Local conversation by non-subscriber		{ Switzerland 2 cts. Germany 5 cts.
Bell prices United States.....10 to 15 cts.		{ Christiania 12 cts. Stockholm 11 cts.
To call a friend to public station nearest his home by telephone and messenger.		{ Anywhere in Luxemburg 7 cts. and Belgium 5 cts.
Bell price in Philadelphia.....50 cts.		
Interurban talk		<i>Same Distances</i>
Between Mount Holly and Philadelphia 18 miles.....25 cts.		{ England, postal lines, 6 cts. Sweden 4 cts.
Boston to New York 200 miles.....\$2		England 60 cts.
Boston to Philadelphia 304 miles.....\$3		{ England 91 cts. France 50 cts. Germany 25 cts. Sweden 13 cts.
Philadelphia to Chicago 820 miles.....\$8		{ Sweden 767 miles 27 cts. In Germany you can talk all over the empire for 25 cts.

Public ownership and control is estimated to have reduced transportation charges in Switzerland 78 per cent. below private monopoly level (see p. 352).

These contrasts and the facts relating to water rents, the Glasgow tramways and the "Two Bridges" stated in the earlier part of this section, are sufficiently remarkable, but the antitheses now to be stated from the history of electric lighting are, perhaps, still more astonishing.

*Electric Light.* The table below and the explanation following it are parts of one statement, and should be so treated in reading or quoting.

### Cost of Electric Light Before and After Public Ownership.

Total cost per lamp year for electric street lights before and after public operation, the "after" service being as good or better than the service it replaced.

	1	2	3
	BEFORE	AFTER	AFTER
	Price paid private company per street arc just before public operation began.	Cost per arc including operating expenses, taxes, insurance, depreciation and interest.	Cost under complete public ownership, including operating expenses, taxes, insurance and depreciation, but not interest, there being no interest to pay when public ownership is complete, i. e. when the people own the plant free of debt.
Aurora, Ill.....	\$325	\$72	\$61
Elgin, Ill.....	228	65	56
Fairfield, Ia.....	375	95	80
Marshalltown, Ia.....	125	40	30
Bay City, Mich.....	100	67	58
Detroit, Mich.....	132	83	68
Allegheny, Pa.....	180	86	75
Bangor, Me.....	150	58	48
Lewiston, Me.....	182	58	52
Peabody, Mass.....	185	73	62

Column 2 is made up of the operating cost plus 5 per cent. on the investment for insurance, taxes and depreciation, and 4 per cent. for interest, except where the actual interest is known. With Aurora, Fairfield, Marshalltown and Bay City the real contrast is between columns 1 and 3, for there is no debt to allow for in those cases. Perhaps the same is true of Bangor and Lewistown. The data in my possession leave that point in doubt in those two cases. The true contrast is always between columns 1 and 3 if you wish to compare private ownership and operation not merely with public *operation* of a plant the capital in which is still privately owned, but with public operation and *ownership complete*.<sup>9</sup>

a little less in the public than in the private works. Wages are higher here, but the hours are 10 to 12, instead of 8, as in England. Allowing for this, American wages are about 25 per cent. higher, a difference more than balanced by the lower cost of oil and coal, so that in American works of large output, the cost in the holder is usually less than 30 cents. (For further details respecting the real cost of gas making, see reports of the public companies in America and of the Local Government Board in England. Also Prof. Bemis' *Municipal Gas*, pp. 25-7, 46-51, 54, 61, 129, and chapter on Gas in *Municipal Monopolies*, pp. 589-592, 606, 608-9, 611-628. *City Government, The Progressive Age*, and the proceedings of the Incorporated Gas Institute, England, contain valuable data that help one to keep abreast of the times.)

<sup>9</sup> When we are trying to ascertain what it is fair for a private company to charge, we must add interest, but when we are trying to discover the effect upon the people of a change to complete public ownership, there is no interest on the public side of the account.

In my articles on "The People's Lamps," in *The Arena*, June to December, 1895, which constituted the first attempt to classify electric plants according



For Bay City, Detroit and Allegheny the figures represent the cost in the second full year of operation, after the plant had got well under way, but in the other cases the cost in some of the subsequent years has exceeded the cost in the early years, and so I have taken an average of all the years for which the data were obtainable. For example, the Peabody costs, including interest and all, as reported by the superintendent, run \$70, \$78, \$70, \$75, \$72.7, affording an average of \$73.

In Aurora the operating cost for the second year was \$25 per arc, and the investment \$230 per arc, making a total actual cost of \$36.50. An allowance of 4 per cent. interest would add \$9.20. In later years the operating expenses have varied from \$50, and even \$54, to \$45 and \$40, which is the figure for 1898. The total operating expenses from the start foot up to \$95,882, which, divided by the total number of lamp years gives an average operating cost of \$50. The average investment has been about \$220, wherefore the average total cost of production for the dozen years has been about \$61 a year for 2000 candle power arcs operated an average of 6 to 7 hours per day. Deducting 3 per cent for depreciation each year since the second the present investment for each of the 233 arcs is about \$200, so that the present cost of production is \$40 operating cost, plus \$10 for taxes, insurance and depreciation, or \$50 total. No wonder the city clerk says in his report of 1897: "Our citizens are thoroughly convinced that municipal management of street lighting is the most economical and satisfactory."

Prior to city ownership, in 1890, Elgin paid \$228 per arc till midnight, but in 1891 the city plant ran all night, on the moon schedule, or one-third more hours, at an operating cost of \$42 per arc, and a total cost, interest and all, of \$62. The prior private rate was fully

to the elements of cost, and make anything like a thoro study of public and private operation, a table was introduced comparing the cost of light before and after, using in the "after" column the figures for complete public ownership as reported to me, and explaining in the text that interest was not included and why, and that in some cases the reported "operating expenses" included repairs which the superintendents said were more than sufficient to cover depreciation, etc. The table, however, was quoted without the accompanying explanation, and so was misunderstood. I have therefore reversed the plan, putting in the "after" columns the highest figures fairly claimable, with interest in column 2 and without any offset against depreciation in any case, relying on the accompanying explanation to indicate the amount of deduction that should be made. Two mistakes in printing were made in the Arena table, and in some cases I have found that the figures reported to me by the authorities in my earlier investigation differ from those now sent me for the same items. For example, the former report from Bay City said the price per arc just before city ownership was \$110, while the letter now at hand says it was \$100. So in Elgin the price was reported to have been \$266, while it is since stated as \$228. My former question, however, called for "the price paid for similar service," and as the lamps burn more hours under public ownership, the former answer may have been an estimate of what the public hours would have cost at the private rate for lower hours.

Some corporation gentlemen have objected to some of the comparisons of public and private rates, because Aurora and Fairfield run the electric works in connection with the water works, and Bangor not only does that, but uses water power, as Lewistown does also. I cannot see, however, that it makes any difference *how* the people make their saving. If they make it, it is made just the same, whether steam or water is the means. If a city saves \$10 an arc by using water power, it is \$10 per arc ahead of where it was just as much as if it were saved in any other way. The *purpose* of this comparison is not to blame the private companies, but to show what the people have gained and can gain by taking matters into their own hands and using their wits.

equal to \$266 per arc for the service rendered by the public plant, or over three times the public total. Under public ownership the operating expenses in the seven years for which I have data have been \$42.2, \$45.7, \$46.2, \$42.6, \$43, \$53, 47.2, giving an average of \$45.5. The report for 1898 for example puts the operating cost at \$47.20 including \$1 for insurance. The average investment per arc figures about \$200, so that the average total cost without interest is \$56, and with interest \$62. These averages are almost exactly the same as for the third year of operation, and somewhat above the figures for the second year.

In Aurora and Fairfield the private charge was over four times the public total, there being no debt on the public plant, and, therefore, no interest to pay.

Detroit reports \$89 per arc, total cost, including interest for the year ending June 30, 1897 (the second year of operation), but Professor Commons and Professor Bemis both criticise the reports of the Detroit Commission. (Municipal Monopolies, pp. 141, 270-2.) Professor Commons objects that the \$89 includes interest, \$18.28 per arc on the *whole* plant, no allowance being made for the incandescent lights or for the fact that the debt was less than the cost of the plant. The true interest was \$3.13, less than that charged to the plant in the report. Professor Bemis, speaking of the report for the next year, notes that the investment per arc is calculated without due allowance for depreciation or for the fact that \$43 per arc represents conduits, only one-fourth of which are used by the electric light plant. One-half of the poles also are used by the police and fire departments and by private lighting, telephone and street railway companies. Regard to these and other considerations named by Prof. Bemis would reduce the total cost by \$3 or \$4 more per arc. For 1898-9 the Commission reports \$46.46 operating cost per arc; depreciation, \$10.85; interest, \$14.48; lost taxes, \$3.77; total, \$75.56, including interest, or \$61 per year under complete public ownership, free of debt. The number of arcs averaged 1868 for the year, and the investment per arc is said to be \$360, but \$300 is more nearly right, as indicated by the above facts.

The Allegheny plant makes an excellent showing. The last report gives \$48 operating cost per arc of 2000 c. p., burned all night and every night. This cost includes insurance and water. Without insurance the operating cost is about \$46. Depreciation is estimated at \$12.46, or 5 per cent. on the total investment down to date. Interest is put at 4 per cent. on the whole investment, or about \$10; lost taxes, \$1.87. Total, \$72.33. Five per cent. depreciation is too much.<sup>10</sup> The investment on which depreciation should be estimated is not \$250 per arc, but \$218, the amount resulting from *writing off* 3 per cent. depreciation each year, and the depreciation per arc now is only \$6.54, instead of \$12.46. Subtracting the sinking fund from the face of the debt, the real debt is only \$200,000, and as

<sup>10</sup> See "The People's Lamp," *Arena*, for Sept., 1895; and "Municipal Monopolies," pp. 113, 127, 133, 207, 269, etc.

one-fifth of this belongs to the incandescent plant for public buildings and not to the arc service, the real debt for each of the 1200 arcs is only \$133, and as the bonds draw interest at 4 per cent., the actual interest is \$5.32, instead of \$10. The real total cost for 1898 is, therefore, under \$62, including interest and all.

Fairfield has a little plant that cost the city \$5000. If 3 per cent. depreciation be deducted from 1882 the investment now is but \$180 for each of the 18 arcs operated. The average yearly operating cost, including the expense of all renewals, has been \$64 per arc.

Bay City paid \$100 per arc burning 1400 hours, but under public ownership burned its street arcs 2421 hours (or 1021 more than before) at a total cost of \$58, there being no debt. In Peabody the arcs contracted for were supposed to be 2000 c. p., but, according to the frequent experience with private companies, were really lower in candle power than the 1600 c. p. lamps operated by the city.

The table by no means exhausts the important facts in this connection, but its meaning is likely to be better understood if it is not too long. A few additional facts, however, may be mentioned here without danger of confusion.

Jacksonville, Florida, started a public electric plant in 1895, which at once reduced the commercial incandescents to less than one-third and commercial arcs to about half what the private company was charging—an average reduction of nearly  $\frac{2}{3}$  on the bills of the first month. In the third year of operation the net cost of the public arc lights has been reduced to less than  $\frac{1}{4}$  of what the city had been paying a private company, and commercial rates have been reduced from  $\frac{1}{2}$  to  $\frac{3}{4}$ , forcing reductions also on the part of the private companies in their charges for electricity and for gas—reductions which alone are officially estimated to equal a yearly profit to consumers of light of  $\frac{2}{3}$  the cost of the public plant. (See further Appendix II B.)

Jamestown, N. Y., began in 1892. In 1894-5 it added a commercial plant. In 1897 it operated 275 street arcs 1200 c. p. and 1200 sixteen c. p. lamps, or 375 sub-arc equivalents at a *net* cost to the city of \$18 per arc year, including depreciation and interest, a saving of fully 1 cent per lamp hour, or \$22 a year for each lamp equivalent, or \$8250 for the 375 sub-arc equivalents. Citizens pay the city plant \$6000 a year for commercial lights, saving \$3000 on former prices.<sup>11</sup> Total cost and total income, \$24,000; total saving on the light furnished by the public plant, \$11,250. Besides this, Professor Commons estimates the forced reductions in the charges of the private company at \$10,000 a year, making the savings to the citizens effected by the public plant amount to a total of \$21,250 a year in a town of 2300 people.

Lansing, Mich., bought the private works, reduced rates at once from 20 to 18 cents per 1000 watts, and again to 12 cents in two

<sup>11</sup> One large consumer, who had been paying \$1,400 a year for his lights, got them from the city for \$900. A leading social club had been paying \$450. To retain its custom, the company reduced the charge for the same light to \$120.

years, and as nearly one-third of the receipts are still clear profit above all expenses, including interest, the real reduction is not merely  $2/5$ , but well toward  $2/3$  of the former private charges.

Springfield, Ill., has lowered the cost of light from \$138 to \$60 per arc by a plant built to become public via a citizens' trust. The city pays \$113, but \$53 of it is not for light, but goes toward paying for the plant. The \$60 covers interest, depreciation and operation (see Method below). The Chicago plant, in its early years, cut the cost at least \$125 from the private charges before the public plant was built, and is now making a fine record. (See Objections below.) Chief Barrett said in 1895 that the public works could furnish commercial incandescents at  $1/4$  the private charge of a cent per lamp hour, 16 c. p., if the public plant could secure permission to sell commercial lights. Recently he has said (speaking of the whole commercial service, including both arc and incandescent lights) that if the city could sell light to private consumers the charges now exacted from them could be cut in two. The South Park Station, in charge of the Park Commissioners, makes a splendid showing, as appears in the table below.

Logansport, Ind., has a commercial plant which has just reduced the commercial rate for incandescents to 5 cents per 1000 watts, or  $1/4$  cent per lamp hour, 16 c. p. In 1894, when the public plant was built, the private charge was 1 cent per hour or 20 cents per 1000 watts.<sup>1</sup> In 1897 the commercial receipts of the Logansport plant more than covered the entire operating expenses, plus depreciation, taxes and insurance, giving the city its street lighting free and a profit besides. Ames, Ia., reports receipts from commercial lighting which yield a surplus above all costs of operation, depreciation and interest. Quite a number of public plants cut the cost of public lighting very much by selling commercial lights at a profit tho at rates very much below the usual private charges. (See Arena, Vol. 13, pp. 391-2.) Seven municipalities report all expenses covered by commercial lighting and seven others report a profit above all cost of operation and fixed charges. (Ibid., adding Ames and Logansport.)

The present cost of producing electric light in municipal plants is shown in the following table. The data given by the local authorities have been adopted except as to the *investment* per arc in Detroit, Allegheny and Aurora. (See above.) The investment given in a number of other cases is probably 15 per cent. or 20 per cent. too high, because depreciation, tho estimated as part of the cost of light from year to year, has not been *charged off* or *deducted* from the capital account. The figures relate to 1897 and 1898, except in Braintree and Danvers squares, where separate arc data have not been sent me since 1895. For 1898 the Danver's municipal reports show 123 sub-arcs, 1,200 c. p. (average number for the year 115) and

<sup>1</sup> Logansport has natural gas for power, estimated by the local authorities to be equal to coal at \$1.65 per ton. This does not affect the comparison, for the private plant had the same advantages in respect to fuel as the public plant.



about 3,000 commercial incandescents 16 c. p. The commercial rates are  $\frac{1}{2}$  cent per lamp hour or 10 cts. per 1,000 watts. Commercial receipts, \$3,752; total operating expenses, \$7,869; leaving \$4,117 to be paid from taxation, which with interest and depreciation on the whole investment gives \$59.28 as the total cost to the city of each street arc as estimated by the local authorities. The total investment is \$37,313; incandescent, \$20,500; arc, \$16,813. The debt on the arc plant is \$1,500, and there is in the treasury a sum of \$1,500 set apart to pay that debt, so that in fact no interest should be entered against the arc service when the *cost of production* is being considered. The actual operating cost per sub-arc was \$46 four years ago, and is probably lower now; depreciation and taxes would add \$6.50, making the total cost of production now not over \$52 for each sub-arc of 1,200 c. p. burning an average of 5 to 6 hours a day.

Present Cost of Electric Light in Municipal Plants.

	Number of street arcs 2000 c. p.	Average hours burned per day.	Average cost of coal per ton.	Yearly operating expenses per arc.	Taxes, insurance and deprecia- tion at 5% on investment.	Total cost per arc under complete public owner- ship.	Interest per arc at $\frac{4}{5}\%$ .	Investment per arc.
Bangor, Me.....	156	10	W. P.	\$38 $\frac{1}{2}$	\$7	\$45	\$6	\$145
Lewiston, Me.....	150	6	"	45	6 $\frac{1}{2}$	52	5 $\frac{1}{2}$	133
Dunkirk, N. Y.....	75	8	\$1.45	39 $\frac{1}{2}$	14	53 $\frac{1}{2}$	11	280
West Troy, N. Y.....	115	10 $\frac{1}{2}$	3.15	61	14	75	11	280
Allegheny, Pa.....	1,200	11	.95	46	11	57	8.7	218
Easton, Pa.....	141	10 $\frac{1}{2}$	2.85	80	15	95	12	300
Bay City, Mich.....	209	7	1.80	42 $\frac{1}{4}$	9 $\frac{1}{2}$	52	7 $\frac{1}{2}$	187
Detroit, Mich.....	1,868	10 $\frac{1}{2}$	2.10	46 $\frac{1}{2}$	15	61 $\frac{1}{2}$	12	300
Chicago (S. o. Park Plant).....	490	6	3.90	42	15	57	11 $\frac{1}{2}$	290
Aurora, Ill.....	233	6	1.75	40	10	50	8	200
Elgin, Ill.....	188	6	1.90	46 $\frac{1}{2}$	9 $\frac{1}{2}$	56	7 $\frac{1}{2}$	190
Topeka, Kan.....	264	6	2.10	41 $\frac{1}{2}$	9	51	9	185
Little Rock, Ark.....	212	7	2.55	41 $\frac{3}{4}$	8	49 $\frac{1}{2}$	8 $\frac{1}{2}$	165
Wheeling, W. Va.....	(2500 c. p.) 450	11	.90	46	11 $\frac{1}{2}$	57 $\frac{1}{2}$	9	230
Peabody, Mass.....	(1600 c. p.) 170	10	3.25	51	10 $\frac{1}{2}$	61 $\frac{1}{2}$	8 $\frac{1}{2}$	210
Braintree, Mass.....	(1200 c. p.) 118	7 $\frac{1}{2}$	3.05	47 $\frac{1}{2}$	14	61 $\frac{1}{2}$	11 $\frac{1}{2}$	280
Danvers, Mass.....	(1200 c. p.) 78	5 $\frac{3}{4}$	3.00	46	10 $\frac{1}{2}$	56 $\frac{1}{2}$	8 $\frac{1}{2}$	210
Jamestown, N. Y.....	(1200 c. p.) 283	11	1.60	36	13	49	10 $\frac{1}{2}$	260
So. Norwalk, Conn.....	(1400 c. p.) 100	6	2.80	36 $\frac{1}{2}$	11	47 $\frac{1}{2}$	9	220

The interest *actually* paid in some of these plants—West Troy and Aurora for example—is nothing. In others the actual interest is much less than the estimates in the seventh column. For ex-



ample, the real interest in Allegheny is \$5.32 per arc; in Wheeling, \$3.00; in Dunkirk, 53 cents, etc.

The first 14 plants have no commercial business. This is well understood to be a serious handicap. Chief Barrett, of Chicago, made this point very emphatic, and Mr. Alex. Dow, formerly in charge of the Detroit plant, and now general manager of the Edison Illuminating Company, of the same city, says: "It is peculiarly characteristic of public lighting operated all night, that its addition to the ordinary work of a private lighting plant tends to reduce the average cost of the combined output." He also speaks of the duplication of equipment resulting from having one plant for commercial work and another for street work.<sup>1</sup> This matter was clearly brought out in the Arena in 1895.<sup>2</sup>

For other data respecting the cost of production and the charges for commercial light, see my chapters on "The People's Lamps," in *The Arena*, Vols. 13 and 14, and the later investigations of Professor Commons and Professor Bemis, in their chapters in *Municipal Monopolies*. I have found the usual commercial charge in public plants to be  $\frac{1}{2}$  cent per lamp hour, or half the usual private charge. Sometimes the rates are  $\frac{3}{4}$  of a cent, as in Peabody and Marblehead, Mass., and Lisbon, Ia., and sometimes they go down to  $\frac{1}{3}$  of a cent or below, as in Newark, Del. (with steam), and Swanton, Vt. (with water power), and in one instance, Logansport, Ind., the rate is  $\frac{1}{4}$  of a cent per lamp hour. Professor Commons arrives at substantially the same conclusion, stating that the usual rates with public plants are  $\frac{1}{2}$  cent per meter hour and 35 to 50 cents per month, against one cent per hour and 75 cents to \$1.25 per month with private companies. (*Munic. Monops.*, p. 156.)

Professor Bemis has obtained data from several hundred plants, public and private, and placed them in groups, according to number of lamps, candle power, hours burned, cost of coal, etc., and in *every* group the average charge by the private companies is more than the cost in the public plants, even when, in addition to 5 per cent. interest,  $7\frac{1}{2}$  per cent. is allowed for depreciation, loss of taxes and other charges not covered by the operating expenses. (*Ibid* p. 240 and tables following.) Professor Bemis does not allow such percentages because they are the true percentages, but in order to meet objectors on their own ground. His tables comparing public and private plants operating under similar conditions thruout are admirable. The method is as conclusive as anything can be, except the record of "befores" and "afters" in the same cities, or the direct comparison of plants precisely alike, except that one is public and the other private. And his facts show beyond question that even admitting the claims of the leading advocates of private monopoly, the proof is still clear in every group that public service is cheaper than private.

The facts of this section by no means exhaust the evidence on

<sup>1</sup> Address to the Natl. Elec. L. Assoc., June 8, 1898.

<sup>2</sup> "The People's Lamps," Nov. number, pp. 449, 455.

this head, yet they constitute a massive proof that public ownership tends to low rates. I have that best to dwell with special emphasis on the financial sections of this chapter, because the majority of people live on the money plain. With most men when you touch the pocket nerve you touch the most sensitive part of their being, the most fully developed portion of their nervous structure, the fibres most vitally connected with the motor muscles and the centres of thought and action, and having the most powerful influence over them. For these reasons I give much space to the financial aspects of the subject, tho I believe them, weighty as they are, to be, nevertheless, intrinsically of vastly less importance than the humanitarian and social advantages of public ownership.

### THE ECONOMY OF PUBLIC OWNERSHIP.

II. *Economy.* Besides the saving to the people from low rates public ownership tends to secure an *absolute* economy in production. Several of the reasons for this I stated in *The Arena* for August, '95, and repeat them here with nine additional points.

1. A public plant does not have to pay dividends on watered stock.
2. It does not have to pay dividends even on the actual investment.
3. It does not have to retain lawyers or lobbyists, or provide for the entertainment of Councilmen, or subscribe to campaign funds, or bear the expenses of pushing the nomination and election of men to protect its interests or give it new privileges, or pay blackmail to ward off the raids of cunning legislators and officials, or buy up its rivals, etc.
4. It does not have to advertise or solicit business.
5. It is able to save a great deal by combination with other departments of public service. Speaking of the low cost of electric light in Dunkirk, the Mayor of the city says: "Our city owns its water plant, and the great saving comes from the city's owning and operating both plants. No extra labor is required but a lineman. The same engineers, firemen and superintendents operate both plants, and the same boiler power is used... So in Bangor, Marshalltown, and a number of other places, the municipal lighting system is run in connection with the public water plant. In Wheeling, the gas and electric plants are operated together. In La Salle, the fire, water, and light departments are consolidated. A great saving in the cost of labor and superintendence results.
6. Public ownership has no interest to pay.
7. Even where public ownership is incomplete, the people not owning the plant free of debt, they still have an advantage in respect to interest, because they can borrow at lower rates than the private companies have to pay.
8. As cities usually act as their own insurers, public ownership is free of tribute to the profits and agency commissions of private insurance companies. Looking at the public works of the country en masse, this is a decided economy. But the diffusion of loss in individual cases is likely to be less perfect under this system than with private insurance, unless municipalities federate in a plan of mutual insurance. Ex-Mayor Matthews, of Boston, defending the charges for electric light in that city, as agent of the Boston Electric Light Company, (in the summer of 1898), admitted that a private company must add \$8 or \$10 to the legitimate cost in a public plant, because a private company would demand 6 per cent. on the investment, instead of 4 per cent. and would have to pay nearly \$2 more per light for insurance, fire and liability, to cover the profits of a private insurance company.
9. There is often a large saving in salaries. A public plant pays its chief well, but does not pay the extravagant salaries awarded by millionaire monopolists to themselves or their substitutes in office.
10. Public plants frequently gain thru the higher efficiency of better treated and more contented labor, still further energized in many cases by the noble motives and sentiments that go with public service in the minds of patriotic men.

11. The losses occasioned by costly strikes and lockouts do not burden the ledgers of public works.
12. Damages and costs of litigation are likely to be less with public than with private works. Accidents are fewer in a system that aims at good service and safety, and treats its employes well. When they do occur, the claims are often compromised or settled fairly and amicably without suit. (Sometimes public industry is largely protected by law from damage claims, but this is not a good economy.) When trial becomes necessary, juries are more lenient toward cities and towns than toward private corporations. And finally, legal talent costs the city less than a private company for the same service. I have in mind a city of a hundred thousand people I used to know something of, which paid only \$1,500 a year to one of the best lawyers in the state to act as city counsel, while a railway company retained the same lawyer at a salary of \$10,000. The Boston Elevated is said to have paid nearly \$20,000 for the services of two lawyers in connection with a single hearing at the State House, or more than half as much in one item as the city of Boston pays for legal services in a whole year. The totals of corporation expenditure for lawyers salaries and fees are not easy to obtain, but it is well known among those conversant with corporate affairs, that a single municipal monopoly, like the Union Traction of Philadelphia or the West End Street Railway of Boston, pays several times as much for legal services as the whole city in which it is located with all its hundreds of miles of streets and other vast interests such as water-works, gas-works, fire service, schools, parks, hospitals, etc., and its complex government with thirty or forty departments.
13. The civic interest of the people leads to other economies thru the increase of patronage and the lessening of waste. The larger the output, the lower the cost of production per unit of service, other things equal, and the tendency to waste electricity, water, etc., is much less when the people know that the service is a public one, the profits of which belong to them and the loss in which, if any, must be paid by them, than when they know that the service is rendered by a private corporation charging monopoly rates and making big profits for a few stockholders. These economies are intensified as education and experience with public ownership develop the understanding and the civic patriotism of the people.
14. The diffusion of wealth and elevation of labor accompanying public ownership tend to diminish the extent and the cost of the criminal and defective classes.
15. The cost of numerous regulative commissions and interminable legislative investigations into the secrets of private monopolies, would be saved by the extension of public ownership.
16. The elimination of conflict and antagonism carries with it the cost of all the useless activities prompted by that antagonism. Legislation would cost us less, for example, were it not for the private monopolies. For a large part of the time and attention of our legislatures is given to them.

Mr. Baker thinks that one "advantage of city ownership is that no taxes are levied by the city on its own property, and hence this item of expense is eliminated." I believe, however, that taxes must be included in the real cost of municipal water, gas or other public service. (1) The government is a factor in production. Every honest industry, whether public or private, owes something to the safety, order and protection afforded by state and municipal governments, and to that extent the cost of government is an element in the cost of producing commodities and service. (2) Justice requires that taxes should be included in the cost of public supplies and collected in the rates, except where considerations above the financial plain command the service to be rendered free or below cost. To bring out the point, suppose the taxes of a community were paid by the consumers of gas and electric light thru the medium of the rates. If then the electric light plant were made public and freed from taxes, the consumers of gas would have to pay the whole cost of the government. The elimination of taxes from the cost of public service would throw an undue burden on other property and industries and their distinctive patrons.

Some persons insist that interest must be estimated as part of

the cost in public works, whether the plant is clear of debt or not. This seems to me an error, and I am glad to find that both Professor Commons and Professor Bemis agree with me.<sup>1</sup> There is no more reason to compute interest on a public plant out of debt than on the money invested in the streets and pavements. If a man B earns \$2000 a year and lives in a house of his own, for which he would have to pay \$1000 if it were owned by some one else, it does not cost him \$3000 to live, but only \$2000, if he spends all he makes. It is one great advantage of owning his dwelling that it costs him less to live than if he had to rent. But you may say, he could rent his house for \$1000, so it really costs him \$3000 to live. Well, perhaps he could earn \$10,000 a year in another business, but it does not cost him \$10,000 a year to live because of that fact. The productive effort he puts forth, the total cost to him, is \$2000 a year. His two daughters might earn \$1500 teaching and his wife might take in washing, etc., which, with the rent of the house, might make a total of \$5000 a year income the family might have, yet it does not cost that family \$5000 a year to live. It is a confusion of thought to class what you *give up* as part of the cost of production.<sup>2</sup>

<sup>1</sup> Professor Commons comes to his conclusion by a different path, but reaches the same result that I did in the '95 Arena articles, speaking of which, the Professor says: "I agree that both he and the city officials are right in figuring interest only on the outstanding debt. This gives the true cost of production to the taxpayers, and the saving of interest in this way must be counted as one of the most important economies which municipal ownership brings." (Munic. Monops., p. 100.) Speaking of the Richmond Gas Works, Prof. Bemis says: "Since the plant was paid for fully 15 years ago out of the net receipts, there is no need of allowing anything for interest." And again, when stating the cost in Bellefontaine, without any estimate for interest, he says: "As the plant has been paid for, there is, of course, no need of earning interest." (Ibid, pp. 609, 613.)

<sup>2</sup> It may be said that a city owning a gas or electric plant, for example, might have put the cost of the works at interest so that "lost interest" must be included in the cost of production along with "lost taxes." In the first place, taxes are not included, because they are "lost." The taxes formerly coming from the private electric company are not lost. Their incidence is changed, that is all. The government gets its requisite revenue; if less here then more there. The said taxes were really paid by a certain body of citizens thru the medium of light rates; now they are paid thru other media by a somewhat different body of citizens perhaps. The reason for including taxes is that they pay for one of the factors in the production of light—the protection of government. There is no analogy therefore between interest and taxes in this relation.

In the second place, suppose a city owns an electric street lighting plant producing at a cost of \$60 per standard arc including operation, taxes and sinking fund for depreciation and insurance, and that the investment is \$300 per arc. And suppose the city sold the works, loaned the money at 5 per cent. (or \$15 an arc) and bought light from a private company at the \$60 cost plus \$15 interest; the real cost to the city is still \$60; the \$15 is really paid by those who borrowed the electric light money; whatever way you look at it the ownership of the electric fund saves the city from wrestling for interest on electric light or other commodity involving equivalent capital. It is one of the great advantages of ownership that it saves the owner interest. Interest is money paid for the use of money or capital. If you own the capital you don't have to pay for the use of it. Otherwise you might as well be a borrower as an owner. When the producer works with his own capital he has to take care of depreciation but not interest. If interest were charged in the above mentioned public street lighting plant and \$75 per arc were collected from the taxpayers instead of \$60, \$15 of each \$75 would go into the public treasury, that is in substance it would go back into the pockets of the taxpayers and the effect would be the same as if no interest were calculated on electric light. In case of a commercial plant paid for by taxation the effect would probably not be quite the same so far as individuals are concerned since the body of consumers may not be identical with the body of taxpayers in personnel or proportion of payment. Yet even here the difference practically vanishes when the plant is paid for out of earnings as is usually the case, and under any circumstances if the municipality owning a plant commercial or otherwise, is regarded as a unit,



The cost of production is what you must have under existing conditions and the rest is profit. Let rival manufacturers make war on each other, one an owner and the other a borrower, and you will soon see that interest does not enter into the cost of production in the case of the owner. He can live on his wages of superintendence. Operating expenses, including repairs, insurance, taxes and depreciation, cover his cost and he can sell right down to the bone if he is willing to get along without *profit*. In the case of the borrower, however, interest is an item in the cost of production, and it is just this difference that makes it so much cheaper to be an owner than a borrower.

The advantage of a city as a borrower is a considerable item. In 1895 I found that, as a rule, private companies were paying from 2 to 4 per cent. more than the municipalities in which they were located. The West End Street Railway paid 5 and 6 per cent., the Boston Electric Light Company reported interest amounting to 6 per cent., and the Edison Company's report indicated 7 per cent. All the way thru the Water Manual I find the private companies paying 5, 6 and 7 per cent., while the public loans often run 2 per cent. less, and sometimes 3 and even 4 per cent. below the private rate. Boston, New York, Philadelphia, Syracuse, Dunkirk and other cities have borrowed at 3 per cent.; Cambridge, Rochester, Troy, Allegheny at  $3\frac{1}{2}$  per cent.; Peabody, Braintree, Newton, South Norwalk, Harrisburg, Easton, 4 per cent. A difference of 2 per cent. in the interest rate means a difference of about \$5 per year in the cost of production of a standard arc lamp under ordinary conditions, and with a plant like that of Chicago in 1894 (underground wires, etc.) it would mean a saving of \$12 per arc, or \$13,320 on the 1110 arcs then lighted by the city plant.

The higher wages and shorter hours that often characterize public treatment of employes, have a tendency to increase the cost of labor. This is often balanced or more than balanced by a resulting increase in the efficiency of labor. When it is not, the excess should properly be charged, not to light, or water, or transportation, but to citizenship. The true philosophy of the matter is that if a city can produce light for \$60 per arc at competitive wages and hours, that is the real cost of production of the light, and if \$20 more per arc are paid, not because the city *has* to pay it to get the *light*, but because it *wishes* to pay it to get better *citizenship*, then the \$20 in a rational account should not be charged to the production of light, but to the production of manhood.

In respect to the salaries of leading officials, public ownership economizes in money at the same time that it diminishes luxurious and aristocratic tendencies and helps to produce conditions favorable to the growth of democratic sentiments and the development

the payment of interest on a service free of debt is simply paying money out of one pocket into another, just as if a man owning a mill should pay *himself* \$1000 interest on the capital invested. The interest would go from his right pocket into his left, he would have just as much money as he had before, and interest would really have cost him nothing however much he put it down on paper.



of vigorous and useful manhood in the leaders of industry and in their families.\* In Auburn, New York, the president of the private water company received \$4000 a year, but after the city bought the works the chief of the water system received \$2500, and the total operating expenses were reduced from \$20,000 to \$16,000 the first year, altho the output was increased 500,000 gallons a day or 1/7 of the total under private ownership. In Philadelphia the head of the gas plant supplying the whole city received \$5500 a year, while the salary of the president of the Boston gas combine was \$25,000, and that of the treasurer \$22,000 a year. With the street railways public ownership would save at a still higher ratio in the item of salaries, if it is true, as reported, that the presidents of the railway systems in our largest cities receive \$25,000 to \$50,000 or more apiece. It is understood that the former president of the Union Traction of Philadelphia received \$25,000, and the new president began with \$20,000, with a prospect of increase. The name of H. H. Vreeland, president of the Metropolitan Traction of New York, is put in the center of a list of ten men whose salaries are said to aggregate \$650,000 a year.

The amount of economy due to the elimination of legislative corruption, etc., under the third count, cannot be estimated with any precision. The reader will find in Sections 8 and 9 sufficient evidence that the saving is not inconsiderable. The following passage from page 135 of Professor Bemis' work on Municipal Gas will impart additional emphasis to the point.

"A lawyer of deserved prominence and high character in Tennessee who has been the attorney of a large gas company for years informed the writer that not a year had passed since he has known anything about it, when his company had not felt itself forced to direct bribery of the city council to secure favors, or more often to protect itself from unscrupulous raiders. The superintendent of a large gas company in another state told me that, while his company had not thus resorted to bribery, it would undoubtedly do so in self-defense if its interests were seriously menaced. A well-known president of one of the largest gas companies in the West has informed a friend of mine that he was asked a bribe of \$5000 on the very floor of the city council by one of the members. A stockholder in another gas company tells me that his company pays annually two per cent. on its capital as a bribe to members of the city council to ward off raids."

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\* The leading owners of a gas plant, street railway or other monopoly are apt to appoint themselves to the chief offices, attaching large salaries to their positions as one means of concealing excessive profits and a pleasant method of stroking their vanity the right way—the high salary being a (self-created) testimonial to the great worth of their personal services. Large salaries being once attached to the offices, are apt to continue in greater or less degree when the same offices are occupied by non-owners. This process, together with the need experienced in some cases of paying high wages to attract men of special ability away from business on their own account into the ranks of employees, or to win aggressive men who might expose or oppose the monopolists if not retained by them, and the sympathy naturally felt by the owners for the agents closest to them and in fullest enjoyment of their confidence, have led to the payment of salaries on a scale commensurate with the overgrown profits of monopoly.

Two per cent. on the "capital" of a private gas company might mean anywhere from 6 to 20 cents per thousand on the price of gas (not counting the extremes of capitalization), or 10 to 25 per cent. added to the fair rate per thousand feet.

It is interesting in this connection to note the testimony of Mr. Allen R. Foote, a former secretary of the National Electric Light Association, who opposes public ownership, but, nevertheless, adduces many facts that make against his position. He says that "A public plant has no expensive conflicts with the municipal councils, nor is it compelled to maintain a lobby, resort to bribery, give interest in stocks and bonds to politicians, or fee able attorneys to watch 'strikes' in the legislature or council, and to resist unjust taxation. It does not have to 'fight' to obtain new legislation or ordinance before it can extend or improve its service or make changes in its motive power. These suggested disabilities under which every public service corporation operates to a greater or less degree, none of which inhere in the conditions imposed upon municipalities, tend to increase capitalization, increase rates of interest and the cost of operation, through fixed charges or otherwise, and correspondingly to increase the necessary price charged users for the service rendered."<sup>3</sup>

Mr. Foote's intention is to prove that it is unfair to compare the cost in public and private plants, but what he really shows is a few great defects of the private system and some of the economics and other strong advantages of public ownership.

#### THE CO-ORDINATION OF INDUSTRIES.

III. *Co-ordination* deserves a separate consideration because it is far more than a mere economy. It may mean \$8 or \$10 saving per standard arc to combine the electric plant with the water works service, but that is not all it means. The lesson in harmony and co-operation is worth more than the money—manhood and civilization lie along that path as well as wealth and leisure. Private ownership may attain the benefits of co-ordination to some extent, but only public ownership can realize them fully. The dangers and detriments of private monopoly increase with combination and so offset the benefits of union. This is why the law is so careful to limit the scope of franchises and restrict the consolidation of private companies. Only public ownership moreover *can* attain complete co-ordination, for many services owned by the public now will

<sup>3</sup> See Mr. Foote's article "No Government Should Operate an Industry." *Municipal Affairs*, June, 1897.

not be given over to private control, and no perfect union can be made between public industries aiming at service, and private corporations aiming at dividends. Unification of motive, method and control is essential to complete co-ordination. Between public control and private control there is at bottom, not a harmony but a discord, not a co-operative impulse, but an impulse of battle.

The water works and the electric light plants are operated in co-ordination with each other in Aurora, Batavia, Paris, La Salle and Bloomington, Ill; Columbus, Goshen and Martinsville, Ind.. Marshalltown, Ia.; Portsmouth, O.; Dunkirk, N. Y., and doubtless other places, in respect to which I do not know the facts in this regard.

Of the 12 cities now operating gas works in this country, all but 4 (Richmond, Charlottesville, Fredericksburg and Duluth) have public electric plants also, which are more or less co-ordinated with the gas works.<sup>1</sup> In Duluth the water and gas plant is one institution under a single manager.

Speaking of water works Mr. Baker says: "Under municipal ownership a harmonious development of this and other public works is possible. Water mains may be laid before streets are paved, thus saving the damage and expense of tearing up good pavement to lay water pipes. The health and police departments may easily work with the water department for the public good, instead of the water company being continually fearful lest the health board declare its water insanitary, and being too often ready to resist efforts to secure a better supply."

Co-ordination is possible not only between departments in the same city and town, but between services in different municipalities. The Massachusetts Metropolitan Water act of 1895 provides for the co-ordination of the water supply of Boston, Chelsea, Everett, Malden, Medford, Newton, Somerville, Belmont, Hyde Park, Melrose, Revere, Watertown, Winthrop, etc. Such interurban federations are of the utmost value, and we hope they may have a wide development in the near future.

In Detroit the electric light poles are used by the police and fire departments and by commercial, telephone and street railway companies. This is only a small co-ordination, but it is in the right direction. We have already spoken of the advantage of having the

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<sup>1</sup> This sort of union is not infrequent with private companies in some sections of the country. Private monopolies unite to a considerable extent and would form more unions if the law did not aim to prevent it. But there are two serious drawbacks to the co-ordination of private monopolies. 1st. It intensifies many of the evils of monopoly and especially its political dangers, and 2d, The co-ordination of public service *cannot be complete* in private hands for the fire and police service, roads, schools, parks, water works, etc., will not be relegated to private control, so that the only possibility of complete and perfect co-ordination of the public service lies in public ownership of all public utilities under a thorough plan of federation and mutual help.

street lighting plant do commercial business also (see Section I), and the advantage would be still greater if *all* the public utilities of the city were united in one harmonious system. Port Arthur, Ont., the only place on this continent that has secured city ownership and operation of its street railway system, has put in an electric plant of 1000 incandescents in connection with the railway.

In Belgium the telephone is operated with the telegraph as part of the postal system. This is true of the trunk lines in England, and the co-ordination will probably extend to the local exchanges in the not very distant future. In Norway, Sweden, Switzerland and Germany the public telephone service is thoroughly co-ordinated with the public telegraph and the public post. In this country we cannot telephone telegrams except by special arrangement, and we cannot telephone mail matter at all.

Among the benefits that accrued from making the telegraph public in England is to be noted a considerable economy in rent, fuel, light and wages by uniting the telegraph service with the mail service under a single control, avoiding useless duplications, using the same offices, the same collecting and delivery agencies, and often the same operatives for both services.<sup>2</sup>

#### PUBLIC PROFITS.

IV. *The Profits* of a public enterprise go to the people and not into the pockets of a few individuals. A city owning its water or light plant or street car lines may run them on rates sufficient to yield a profit, which goes into the public treasury to reduce taxation, or add to the public resources, or it may operate the works at rates too low to yield a surplus, in which case a fund equivalent to the dividends and profits of the private companies, goes to the people in the shape of lower rates.\*

The great majority of cities and towns supplying water, gas, electricity, telephone service or transportation to the citizens, do so at rates sufficient to yield a profit.

The Philadelphia water works turn into the public treasury \$1,302,000, or about 4 per cent. a year on the value of the plant above expenditures (tho the average receipts are but 3 cents per 1000 gallons), \$900,000 clear profit above depreciation, there being no

<sup>2</sup> See Arena, Vol. 17, p. 29.

\* For a fine discussion of a related topic showing that cities collecting garbage, laying pavements and constructing work *by direct employment* of labor, make thereby a large saving on the cost of doing the same work *by contract* in the same or neighboring cities, see "City Government," Vol. 7, No. 3, pp. 53, 56-7. The experiences cited by Mayor Perry of Grand Rapids and H. J. Gordon of New York, in the papers referred to, prove that the direct method, properly used, saves the *profits of contractors* and the *costs entailed by their frauds and blunders*.



interest to pay. The works, moreover, furnish free service to the city, which, at the meter rate charged by the city, would be worth \$200,000 by the Chief's estimate. At private rates the city would pay \$555,000 for the 11,100 fire hydrants alone (\$50 per hydrant is the price paid the private company in Indianapolis), and \$50,000 to \$100,000 for street sprinkling, sewer flushing, etc. So that the city treasury is fully  $1\frac{1}{2}$  millions ahead thru the public ownership of the water supply. If we include the savings to consumers, who pay a little less than 3 millions now at 3 cents per thousand gallons (nearly a million of it being clear profit to the city), and would probably pay two or three times as much to a private company (the receipts in Indianapolis are 8 cents per thousand gallons), we shall see that the total saving to the people of Philadelphia is probably not less than 4 millions a year, and maybe a good deal more than that. Her gas works paid for themselves out of earnings, and at the time of the lease, with gas at \$1, were yielding over \$400,000 a year cash profits above operating cost, which was more than enough to cover depreciation and cost of collections, water, etc., leaving as clear profit the 700,000,000 feet of free gas annually supplied to city buildings, etc., worth \$700,000, or 7 per cent. on the value of the works. A few years ago, when the charge was \$1.50 per thousand, the gas receipts of Philadelphia paid for the large amount of gas burned in the streets and public buildings, and also turned about \$1,000,000 cash into the public treasury every year.

In New York city the public water works turn \$1,530,000 cash into the public treasury after paying interest and cost of operation. The free public service at current rates would surely be worth \$600,000, making a total profit of \$2,130,000, or \$1,500,000 after allowing for depreciation.

Chicago's water works yield a cash profit of \$1,483,000 above operation and interest on the water debt. This with free service that would probably cost \$700,000 or more if obtained from a private company, indicates a clear profit of nearly \$2,000,000 above depreciation.<sup>1</sup>

We have spoken already in Section I of the profits of public electric plants that do commercial lighting—profits sometimes sufficient even in small communities to cover the whole expenses of the plant and give the city its street lamps free. In large places municipal works doing *all* the commercial lighting can cut the prevailing private rates in two and still more than pay all costs, tho lighting the streets and public buildings free.

Every one of the twelve cities operating public gas works receives a considerable margin above operating cost, and all but Middleborough make a good profit above operation and depreciation, the Hamilton has to pay her profits over to the capitalists for interest.<sup>2</sup>

<sup>1</sup> For numberless other cities and towns making a profit on water: tho selling at very reasonable rates, see Baker's *Manual of American Water Works*, 1897.

<sup>2</sup> For the details as to public gas profits see *Municipal Monopolies Chap. on Gas*, 1898, and Bemis on *Municipal Gas*, 1891, pp. 55, 87, etc. For 1890



The Wheeling gas works have paid for themselves out of earnings on a charge of 75 cents per thousand feet, and are helping to pay for the electric light works. The public gas works of Richmond paid for themselves over fifteen years ago, and the works of Henderson, Bellefontaine, Alexandria, Danville and Charlottesville have also made their cost and paid off their debt out of earnings, and some of them a good deal more. The Philadelphia gas works paid for themselves long ago if they are credited with the actual value of the gas they furnished the city free of charge.<sup>3</sup>

The English public gas works make a good profit also. (See Section I.) Take one case. When Nottingham took over the gas plant the price was 83½ cents per thousand. The city lowered it to 70, then 62, and after a few years to 54 cents. The consumption rose from 500 million feet to 1106 million, and the profit rose from \$25,000 to \$165,000 a year. The rate was lessened 16 per cent. at the start, and in 8 years the price was lowered 25 per cent. more, consumption more than doubled and profits increased 600 per cent.

#### LARGER FACILITIES.

V. *Enlargement and Extension of Facilities* as public need may require is a distinguishing characteristic of public enterprise.

Private gas and water companies lay their mains only in streets that will yield a profit. Public works put their pipes into any street where there is a reasonable demand for the service. Private schools and turnpikes go only where they will "pay"—can't go anywhere else except on the basis of charity; but public schools and roads go into every district where there are children to educate or people to travel.

Mr. H. A. Foster, tho opposing public ownership, in a review of 34 towns having public electric plants, admits that "somewhat over half the number are places where it is doubtful if a commercial or private plant could be made to pay under any circumstances."<sup>1</sup>

In cities and towns of every size, with or without public lighting plants, it is public enterprise, not private, that lights the streets and

Professor Bemis found the cash profits above operation ran from 6 to 24½ per cent. on the value of the plant. In round numbers

Hamilton 6%	Wheeling 10%	Philadelphia 24½%
Danville 8%	Henderson 10½%	Richmond 19%
Charlottesville 8¾%	Bellefontaine 9¼%	Alexandria 11½%

<sup>3</sup> I believe it would be better if each department were credited every year with the value of all the service it renders. If the totals of receipts and profits included such values and the accounts were balanced by a payment to the public good also including said values, the people would understand more clearly the full value of their public works. It would also be a good thing if each department chief, as far as possible, would close his report with a comparative statement of prices and results in his own works and other public and *private* enterprises of similar character in the same locality or neighboring communities. He might be given authority to call for persons and papers to get the facts from private companies. The bottom facts are what we want everywhere and all the time.

<sup>1</sup> Electrical Engineer, Sept. 5, 1894.

alleys, and if it were left to private companies the streets of the poor and the alleys if the slums would be left in darkness—the very places most in need of light for safety in travel and as a police measure to prevent crime, would be without the protecting influence of the street lamps.<sup>2</sup>

Our postal service goes to every hamlet in the land, but the telephone monopoly confines itself to cities and densely populated districts, where the profit will be large. In England, also, where the local telephone service has been in the hands of a licensed and protected national monopoly, small towns and country districts have remained for the most part without the service. But in Norway, Sweden, Luxemburg and Switzerland the public telephone has netted the rural districts and become almost as universal as the post.<sup>3</sup>

When England bought out the telegraph, the "government's first move was the rapid extension of the lines into districts hitherto unprovided with telegraph service, and the reduction of the tariff." The miles of line were increased from 5601, under private ownership in 1869, to 15,000 under public ownership in 1870. The public telegraph developed "large additional facilities by opening more offices, locating offices more conveniently and making every post-office and post-box a place where a telegram may be deposited to be taken to the nearest telegraph office for transmission."<sup>4</sup>

#### MORE BUSINESS.

VI. *Increase of Business* is one of the marked advantages of public ownership. Lower rates and increased facilities enlarge the volume of business, and the natural tendency of the people to patronize a public enterprise more cordially than a private one has a further effect in the same direction. And the larger output means a fuller satisfaction of the wants of the community and a lessened cost of production per unit of service and per individual served.

In 1889 the *water* commissioners of Syracuse, N. Y., investigated 250 towns, and found that, even where prices were the same, there

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<sup>2</sup>It must be noted however, that while public ownership is apt to put water mains, gas pipes, light wires, etc., wherever there is reasonable need for them, yet where the voters and taxpayers are not *directly* and *personally* interested in the service, as in the case of schools, the facilities provided, tho far in excess of what private enterprise would probably afford, are nevertheless considerably below the reasonable need.

<sup>3</sup>Germany has not been so successful in the extension of the telephone to town and country, because she has made the mistake of adopting a uniform rate of \$35.70 which is fair enough in the larger cities but is prohibitive in the country. To charge the same rate for local telephone service in a farm district or a town of two or three thousand people, as in a city of a million and a half is an absurdity. A uniform rate in the post is good and a uniform rate for interurban telephone service would be all right, but a uniform rate for local exchanges is by no means so easily justified and if such a rate is to be adopted it should be the town rate, not the big city rate.

<sup>4</sup>The Arena, Vol. 17, p. 29.

was a much greater use of water in towns supplied by public works than in towns supplied by private companies. The statistics of the 50 largest cities in the country, collated by the eleventh census, showed the same. I put the Manual of American Water Works (1897) and tables of population by census returns and later estimates into the hands of an assistant, with instructions to find the average consumption per family in all the large cities having private works returning data from which the fact could be ascertained, and then find the consumption in an equal number of large cities having public plants and scattered over the country as widely as the private systems. The following table shows the results: <sup>1</sup>

Consumption of Water with Public and Private Service.

	Average Daily Consumption per Family in Gallons.		
	Private Works.	Public Works.	
Indianapolis.....	275	1373	.....Buffalo.
Terra Haute.....	430	950	.....Wheeling.
San Francisco.....	300	1000	.....Philadelphia.
Memphis.....	450	700	.....Nashville.
Mobile.....	600	1000	.....Washington.
New Orleans.....	160	630	.....Richmond.
Charleston, S. C.....	120	600	.....Boston.
New Haven.....	650	800	.....Albany.
Quincy, Ill.....	170	600	.....Chicago.
Peoria, ".....	320	600	.....Cleveland.
Kansas City, Kan.....	200	300	.....Kansas City, Mo.
Des Moines, Ia.....	220	500	.....St. Louis.
Denver.....	1167	1666	.....Colorado Springs.
Los Angeles, Cal.....	850	1000	.....Sacramento.
Oakland, ".....	760	1000	.....Portland, Oreg.
Omaha.....	500 (?)	700	.....Detroit.
Bridgeport, Conn.....	1140	1000	.....Pittsburg.
Elizabeth, N. J.....	530	920	.....Camden, N. J.
Paterson, ".....	510	712	.....Lancaster, Pa.
Elmira, N. Y.....	375	700	.....Troy, N. Y.
Total averages.....	486	887	

The left column includes all cities registered as over 30,000 population in 1890 and having private works which made sufficient returns to permit the estimate of consumption per family to be made, the private companies supplying seven cities of the specified rank made no returns of the average consumption, and one made very incomplete returns. In the further case of Omaha the average had to be estimated from the maximum and minimum consumption.

Running over the tables of ownership and keeping in mind both population and location, a list was made of comparable cities having public water works, and the right hand column contains the *first 20*, for which the Water Manual and the population estimates afforded the requisite data, 23 public cities being looked at in get-

<sup>1</sup> The figures in the Water Manual refer to '95 and '96, and the family consumption here stated must not be taken as absolutely precise, for the population for those years is not certainly known. The estimates of local authorities and statistical experts are, however, likely to err equally in respect to the cities in the left column and in respect to those in the right.

ting he said 20, and the facts for three of the attempted cities being found incomplete. Pittsburg has private works as well as public, but as  $\frac{3}{4}$  of the service is public I have allowed it to stand.

In respect to *gas*, Professor Bemis found that the proportion of consumers to population was 20 per cent. larger in cities owning public works than in the Massachusetts cities with private works selling at about the same average prices.<sup>2</sup>

On the Brooklyn *Bridge* "when the railway fare was cut in two in 1885, the traffic at once more than doubled, and the receipts, instead of falling off, were considerably increased."<sup>3</sup>

Glasgow had a similar experience with her *street railways* when she began to operate them. The fares were cut one-third and the business was doubled in about two years.

When England took the *telegraph*, in 1870, pushed the lines into rural districts and cut the rates  $\frac{1}{3}$  to  $\frac{1}{2}$ , the number of messages increased 50 per cent, and the amount of business done (or number of word-miles) about doubled the first year. By the middle of 1871 (about a year after the postal telegraph had got things arranged in the new order and was well prepared for work) even the *number* of messages was nearly double what it had been under private ownership, and the average length of the messages was very much greater, partly on account of the extremely low rates for press work under the postal tariff.

Since 1869 the per capita use of the telegraph has grown six times more rapidly in Great Britain, under public ownership, than in this country, under private ownership. In 1869 there was about one message to five persons in Great Britain, and one to three persons in the United States. Our telegraph was considerably ahead of the English when both were in private hands, but when theirs became public it speedily went ahead of ours, so that now the messages are nearly two to each person in Great Britain and less than one to each person here.<sup>4</sup>

The quality of the new business is also specially worthy of note. The result of public operation "was a vast and immediate increase in the *popular* use of the telegraph. Social messages and newspaper traffic developed enormously. The telegraph became something more than an aid to speculation, and began to be of use to the *people*."<sup>5</sup> The president of the Western Union Telegraph Company, testifying before committees of Congress a few years ago, said that "less than 1 per cent. of the people used the telegraph" in the United States, and that only "about 5 or 6 per cent. of the messages were social." Afterwards he said "46 per cent. of the total business is purely speculative—stock jobbing, wheat deals in futures, etc.;

<sup>2</sup> Municipal Gas, p. 23.

<sup>3</sup> Dr Max West in Municipal Monopolies, p. 407, citing Report of Bridge Trustees, 1885, pp. 4-10. The Dr. says, "There was at the same time no increase in operating expenses of the bridge as a whole, but a slight decrease. The operating expenses of the railway itself are not separately reported, but they undoubtedly comprise all the large items."

<sup>4</sup> See facts and references in The Arena for Dec., 1896, pp. 20-22.

<sup>5</sup> The Arena, Vol. 17, pp 17-21.

34 per cent. legitimate trade; 12 per cent. press; and 8 per cent. social." In Europe, with the public telegraph, "two-thirds of all despatches are on social or family matters." In Belgium, with her low public rates, 63 per cent. of the messages are on social matters.<sup>6</sup>

The increased use of a public service by the mass of the people is one of the strongest recommendations of public ownership.

#### NO SECRET REBATES OR BUSINESS PREFERENCES.

VII. *More Impartiality* in the treatment of customers and *less friction* between consumer and supplier is apt to exist in public service than in private. The consumer is a part owner in the public plant, and partners stand a better chance of good treatment than outsiders. On the other hand the consumer feels that the public service is his and he behaves better toward it than toward a private monopoly that he believes to be overcharging him and playing the master with him and his agents. As a matter of fact whichever way you turn you will find some private monopoly giving free service for private purposes to some persons and overcharging others, making secret rebates and other unjust discriminations in private business to the great emolument of some individuals and the ruin of others, but where will you find such things in works that are really public? Works in which the people have the ownership, and over which they have effective control do not establish secret rebates or discriminate unjustly in any way in the private business of their customers.<sup>1</sup>

<sup>6</sup> Arena, Vol. 15, pp. 411-12. U. S. Sen. Rep. 577, 48th Congress, 1st Sess. pp. 15, 16 and Part 2, pp. 63, 244; Bingham Hearings, 1890, pp. 41, 56; House Rep., 114, 41st Congress, 2d Sess., p. 42; I. T. U. Hearings, 1894, p. 17.

<sup>1</sup> There is of course a discrimination between public business and private, which is perfectly just and proper. Public street cars may carry policeman on duty free of charge, and the post office may give the franking power to senators and representatives, etc., to facilitate public business, more than the value of this service being collected by general taxation.

The reader will note the claim for public ownership is *more impartiality*, not *perfect impartiality*, there is a sort of distinction in favor of public business which does not seem to me to meet the highest ideals. As for example, the charging of rates for water, gas, electric light, etc., sufficient to cover the cost of the water, and light used in the streets and public buildings, so that the municipality gets its service at the expense of the body of citizens who consume water, gas, etc. Except where higher considerations intervene to lift the matter above the financial plain I believe the truest plan is to make each service pay for itself. Gas consumers are only a part of those benefited by the street lamps. The whole body of taxpayers should contribute to the latter. Nevertheless this distinction in favor of public service has none of the absolutely *pernicious* features that mark the *discriminations* of private monopoly *between individuals*. And even with the burden of paying for the public service the customers of city works are vastly better off in pocket and every other way than under the reign of private monopoly.



## SUPERIOR SAFETY.

VIII. *Public Safety* is a natural aim of public service, more or less perfectly fulfilled according to the character of the officers in charge of the service. A striking illustration of the difference in safety that may result from a difference of aim in this respect, is to be found in the railway statistics collected a few years ago by Professor Ely, which proved that of each million of railroad passengers 6 times as many are killed in the United States under private control as in Germany under public control. The public railway over Brooklyn Bridge has a remarkable record for freedom from accident. It has handled 500,000,000 passengers with only 2 fatal injuries (one to a passenger and one to a trainman), and one other serious injury to a passenger. The latest report in my possession which summarizes the accidents on the street railways of New York and Brooklyn shows 47 killed and 129 injured, the total passengers carried during the year being 423,149,000—a ratio of accident per million passengers that is 70 fold greater than on the public line.

## FULFILMENT OF LAW.

IX. *Obedience to Law* is more likely to characterize public service than private monopoly. A business owned and controlled by the law-maker is more apt to conform to the law-makers will (one expression of which is the law) than a business owned and controlled by one whose interests are largely adverse to those of the body of citizens who make the law directly or thru representatives that, when true to their trust, embody the citizens' interests in the law and the policy of the government.

## SUPERIOR SERVICE.

X. *Better Service* in every respect is likely to accompany public ownership. Public ownership is not an absolute guarantee of good service, but a public monopoly has at least no interest opposed to good service. A business is apt to be managed in the interests of its owners. If the people own the ser-

vice they will be more apt to get what they want than under an antagonistic ownership. The servants of the people, with a good civil service, will be more apt to do the people's will, than the servants of a company whose will is opposed to the people and who are in the business to get all they can and give no more than they must.

We have found in New York that street arcs supposed to be 2000 candle power by contract, were really only a little more than 1000 c. p. Wheeling's public arcs, on the other hand, show an actual candle power of 2500, or 500 c. p. above the standard. South Norwalk's sub-arcs show 1400 c. p., or 200 above the usual sub-arc specification. Detroit, with her public electric plant, gets steadier and more brilliant lights than those obtained from the private companies. The Report for 1898, p. 6, says that "The quality of light furnished has been *uniformly* of the full standard of 2000 candle power, which is better than was found practicable to obtain of contractors." Professor Commons, after comparing a large number of public and private plants, says the indications are that "the great majority of the 300 cities and villages now furnishing light are actually getting *better service at less cost* than those which depend upon private companies."<sup>1</sup>

Professor Bemis found that the quality of gas supplied by public plants was superior on the average to that of the gas supplied by the private companies of Massachusetts, judging by the candle power.<sup>2</sup> One of the strongest contrasts I have met with under this head is that between the public pipe line of the Toledo gas works and the private pipe line of the Standard (Oil) Gas Company. "The city trustees built a better pipe line than private enterprise had laid. The private line was of cheap iron of 14-foot lengths, while Toledo's was in 24-foot pieces. One of the private lines was laid with rubber joints and in shallow trenches, in many places of not more than plough depth. It leaked at almost every joint; its course could be traced across the fields by the smell of gas and the blighted line of vegetation. There were frequent explosions from the escaping gas; lives and property were much endangered. The city line was laid with lead joints, and had every device that engineering experience could suggest for its success, and was so constructed that it could be cleaned or repaired, and freed from liquids interfering with the flow of gas, without shutting off the supply—features the other pipe had not."<sup>3</sup>

With the Glasgow tramways, the Trodghjem telephone and the English telegraph, improvement of service is one of the marked results of public ownership.<sup>4</sup>

<sup>1</sup> Municipal Monopolies, p. 173.

<sup>2</sup> Municipal Gas (Econ. Assoc.), p. 24.

<sup>3</sup> Lloyd's "Wealth against the Commonwealth," p. 360.

<sup>4</sup> See below, "Experience." General Francis A. Walker told the writer that according to his experience the service on the English lines was superior

The self-interest of a private company leads it to make as much profit as possible. And the same self-interest of a public plant leads it to render good service at as low cost as is consistent with the proper treatment of labor and the development of civilization.

#### HONEST ACCOUNTS.

XI. *True Accounts* constitute one of the great advantages of public ownership. The accounts of public plants are not always *perfect*. Like the accounts of private companies they frequently omit any estimate of depreciation, but unlike the statements of private companies the books of public works show the true cost of construction and expenses of operation. The entries are honest as far as they go. I have yet to hear of a single false entry in the books of a public business except by an occasional defaulter, an animal not yet extinct in either public or private service. In the ordinary routine of business false entries are practically unknown in public works, while every investigation of private monopolies gives abundant proof of the prevalence of false accounting, and even the laws requiring sworn returns appear to be powerless to bring the big monopolies down to the truth. Professor Bemis, the celebrated gas specialist, says: "Gas companies have various ways of concealing their profits, even in the reports they are forced to make to the Massachusetts Gas Commission. Not only are exorbitant salaries, legal fees, and 'legislative' or 'advertising' expenses often paid, but directors sometimes justify their title by 'directing' the money of their corporations into their own pockets through excessive prices for oil, acetylene patents, or other properties in which they are personally interested. One company may thus buy from another for 60 cents, or even

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to the service here, and Professor R. T. Ely says the same in respect to the German service. Our telegrams are subject to much delay. Speculative despatches have the right of way, and everything else even the business of the Federal Government has to wait. Our telegraph service is defective in other ways,—it is inaccurate, uses old methods instead of the newest and best, divulges the secrets entrusted to it, refuses efficient service to the government, is not co-ordinated with the telephone, and is marred by unjust discriminations.

England, France and Germany have adopted new inventions while the Western Union has repressed them and locked them up in order to get the wear out of the existing plant. No complaint is made in Europe of discrimination, lack of secrecy, slowness, or inaccuracy (though such complaints were common in Great Britain before the people purchased the telegraph). The Government gets efficient service at cost and the telegraph is co-ordinated with the telephone to the great convenience of the public.

a dollar, in the holder, gas which it can itself make for 20 to 30 cents.”<sup>5</sup>

Private works have a very strong motive to manipulate their accounts. In public works this motive is absent. They cannot understate expenses for the works must claim enough to cover the actual cost. There is no wish to overstate expenses for the credit of the officers depends on making a good showing for the works. Besides all this the publicity that surrounds a municipal undertaking is an additional guarantee of true accounting.

#### NO INFLATED CAPITALIZATION.

XII. *No Watered Stock* is issued by public works. The cost may be too high when private works are purchased by city or state, but care is usually taken to write off the excess as fast as possible. No fictitious capital is created by public enterprise, and it does its best to banish that created by private monopoly. This is a benefit the importance of which cannot easily be overestimated.

#### NO STOCKS TO GAMBLE WITH.

XIII. *Public Ownership Tends to Diminish Speculation and Gambling.* This is too obvious to need extended comment. Every time a private monopoly is transferred to the public a body of stock ceases to exist and the materials of gambling and speculation are diminished by that amount.

#### LESS FRAUD AND CORRUPTION.

XIV. *Public Ownership Tends to Diminish Fraud and Corruption* by removing one of their principal causes. It is not the public water, gas and electric plants that buy up voters and keep their lobbies at city hall, but the private companies. It is not the public post but the private railways that maintain shrewd lobbyists in Washington and every State capital.

\* “Municipal Monopolies,” pp. 588-9.

One of the greatest advantages of public ownership is its tendency to relieve our government of corrupting relations with men of wealth and giant corporations. Rich and influential citizens whose interests as investors in gas and electric plants, street railways and other franchises prompt them to weaken and corrupt the government, or at least to wink at corruption on behalf of the companies in which they are interested, would, under public ownership have no financial interests at stake except as consumers and taxpayers, which would lead them to desire good government and efficient administration. As part owners in private railways and gas works their financial interests are opposed to good government, but as part owners in public railways and gas works their financial interests would demand good government. Few matters stated in this chapter are more important than this change of interest and civic relation in men of wealth and power, for, as Mayor Swift of Chicago told the Commercial Club of that city, December 28, 1896, it is precisely those men of wealth and influence who are responsible for the corruption of municipal government. "Who bribes the Common Council?" said the Mayor. "It is not the men in the common walks of life. It is you representative citizens, you capitalists, you business men."

In studying the effect of public electric works I have found many instances in which the purification of municipal politics was clearly aided by the change to public ownership. And Professor Bemis after examining the history of the gas works in Philadelphia, Richmond, Wheeling, and all the other cities having public works in 1891, declared that experience in every one of those cities, not excepting Philadelphia, had shown that public ownership tends to diminish political corruption.

Professor Commons says: "I maintain that nine-tenths of the existing municipal corruption and inefficiency result from the policy of leaving municipal functions to private parties; and that an essential part of the present unparalleled awakening of civic conscience on the part of all classes of the people is the desire for municipal ownership of franchises. As the people become aroused to the degradation of their politics and to the need of reform, their attention is concentrated on the chief source of that degradation, the underhanded and often



high-handed domination of city officials and machine politics by the corporations whose life is maintained by city franchises." (For the facts see sections 8 and 9.)

Professor Ely says: "Our terrible corruption in cities dates from the rise of private corporations in control of natural monopolies, and when we abolish them we do away with the chief cause of corruption. 'But,' it is said, 'we must take natural monopolies out of politics.' It never has been done, and it is an impossible thing to do—absolutely impossible. No gas-works, no water-works, no street-car lines, no steam railways, are so thoroughly in politics as those in the United States. Our American railroads are incomparably more in 'politics' than the German railroads. Not only this; those German railroads which have been bought by the state, I believe, are less 'in politics' than they were when they were private property. . . . I unhesitatingly advocate public ownership and management for gas-works, and I challenge anyone to instance a single American city—or, for that matter, any city, wheresoever situated—which has gone over to public ownership and which regrets it; which, indeed, has not found that a corrupt political influence was thereby removed and political life purified."

Dr. Albert Shaw says: "The pressure that would be brought to bear on the government to produce corruption under municipal ownership of monopolies like gas, electric light, transit, etc., would be incomparably less than the pressure which is now brought to bear by the corporations."

Governor Pingree says: "The corporations are responsible for nearly all the thieving and boodling with which our cities suffer."

Private monopolies are by their very nature compelled to be more or less "in politics;" but make the works public with a provision that they shall not be sold or leased except on a referendum vote of the people, and many of your council bribers and government wreckers will stand among the leading friends of honest government.<sup>1</sup>

<sup>1</sup> See "Objections" below for points on the subject of corruption. The only political abuse claimed by objectors to attach to public works relates to misuse of patronage. But this abuse exists only where *public* ownership

## ATTRACTS GOOD MEN INTO POLITICS.

XV. *The Inducement to Good and Able Men to take part in politics is greater* under public ownership of public utilities than under private ownership of them, *while the inducement to selfish and scheming men is less* than under private ownership. The chance to gain money and power by selling votes and influence in council and legislature to gas or electric, or street railway companies, or by other political work for some big monopoly is one of the things that attract bad men into politics. And the fact that so much of this sort of work is done is one of the principal things that keep good men out of politics. They do not like to live in an atmosphere charged with filth. The abolition of the private monopolies will do more than any other one thing to purify politics, and the purification of politics is all that is necessary to get the best and ablest men to take their full part in public affairs.

## DEVELOPS CIVIC INTEREST AND A BETTER CITIZENSHIP.

XVI. *The Mass of citizens will take more interest in public affairs, and a better citizenship* along the whole line will result. The interest which the average citizen takes in civic affairs depends on the number, importance, and directness of the ways in which the government affects his interests. One of the surest ways to develop public spirit and a nobler civic ideal is to enlarge the scope and importance of city government. A government that means order, education, roads, fire protection, water, gas, electric light, street railways, telegraph and telephone service, will engage the attention, interest and effort of the average man much more effectively than a government that means only half or a third of the services named. To some the tendency of public ownership to intensify public spirit and civic patriotism seems the very highest of all its many advantages. For example the famous Mayor Jones of

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has not been fully adopted. A modified form of private ownership with the all important monopoly, the government, largely controlled in private interest is not really entitled to be called "public ownership." Yet even this partial public ownership tends to produce a strong movement toward real public ownership and at its worst the abuse of patronage is an evil utterly insignificant as compared with the secret, all pervading, soul degrading, government destroying corruptions of private monopoly to-day.

Toledo, said in his admirable address to the League of American Municipalities, Detroit, 1898: "The greatest good that we are to find through municipal ownership will be found in the improved quality of our citizenship."

OPPOSES THE SPOILS SYSTEM.

LEADS TO THE MERIT SYSTEM OF CIVIL SERVICE.

XVII. *Civil Service Reform will be aided by Public Ownership.* The awakening of civic interest in the mass of the people, the infusion of better men and nobler influences into politics, and the elimination of some of the worst men and most degrading influences, will help the cause of every governmental reform, but there are even more specific reasons for believing with Professor Ely that "The door to civil service reform is industrial reform." In the first place large masses of business cannot be so well or economically managed without good civil service regulations based on the merit system of appointment and promotion, wherefore the enlargement of public business intensifies the losses of taxpayers from the absence of such regulations, deepens their interest in civil service reform and strengthens their demand for it. In the second place the managers of public works are prompted to favor such reform because their works cannot reach the highest efficiency or economy without it. The pride which every good superintendent has in his works and the natural desire of department chiefs to make as good a showing as possible makes such men the friends of civil service reform. The Detroit Electric Commissioners express the feeling of many department heads when they say in the last report (1899), p. 10, "To a strict adherence to the policy which assured the working force of the Commission a tenure of position dependent solely upon good behavior and the system of promotion in service according to merit which has always prevailed, the success which has thus far attended the administration of this department of the city's government, is mostly due. The Commission has had occasion to call attention to the importance of this subject. The work of the past year confirms its belief, and has served to emphasize the necessity of a rigid

adherence to this principle. . . . . A departure from this policy would result in decreasing not alone the uniform efficiency of the service, but also seriously interfering with its economical administration." In the third place experience proves that public works become powerful means of improvement in the civil service. This has been the case in Chicago, Wheeling, Richmond, and other large cities. Superintendent Darrah of the Wheeling works told Professor Bemis in 1891 that the very fact of the gas works being in public hands was forcing the question of civil service reform to the front. When the legislature granted the Wheeling works the right to sell gas, it required that the board of gas trustees should be non-partisan i. e. selected from the two chief political parties. Professor Bemis made a special study of this subject and states the result as follows: "The tendency of public ownership in *every city investigated* is, I find, to a gradual separation of politics and patronage from the gas and other departments."<sup>1</sup> There is no doubt upon reason and experience that public ownership tends to destroy the spoils system and establish the merit system of civil service.

#### TENDS TO IMPROVE THE GOVERNMENT.

XVIII. *Better Government* is likely to result from the public ownership of monopolies, not only thru its tendency to force civil service reform, improve the quality of citizenship, deepen the interest of the masses in municipal government, attract more good and able men into politics while discouraging bad men, change the financial interest of the rich and influential from opposition to good government to support of it, and abolish the corporations that constitute the chief cause of corruption, but also thru its tendency to liberate thinkers, speakers, writers, editors, preachers, teachers and workingmen from the restraints now imposed upon them. It is not quite safe to-day to be a reformer or to talk too plainly about the doings of the big monopolies. Editors of great dailies would lose their positions if they told the people what they

know and think about the street railways, electric light companies, etc., for the owners of such monopolies are in many cases the owners of the papers also. Preachers who apply Christian principles too specifically to industrial conditions find the church purse and policy controlled by those who favor a statute of limitations on the Golden Rule when it comes into the neighborhood of private monopoly or brings suit against a trust or combine. A professor of economics who discusses the evils of monopoly with reasonable thoroughness is in danger of losing his position thru corporate influence, or the pressure of wealth upon the trustees, or their fear of losing support. The business man may lose his trade and the workingman his employment by expressing himself on the monopoly question. A public spirited merchant of Chicago who took a vigorous part in exposing and opposing the outrageous scheming of the street railway companies to get a fifty year franchise, was threatened with ruin again and again if he did not desist. Reform under such conditions is not an attractive occupation. Press, pulpit, college, and market wear the chains of monopoly as well as the city hall and the state house. But make the monopolies public and the chains will fall. It will no longer be dangerous to advocate the reforms that are now so bitterly fought by the private monopolists. Governmental reform will have only natural inertia and the politician to overcome, and if the referendum is added to public possession of monopolies the politician will be swept aside along with the industrial monopolist.

#### FRANCHISE ADVANTAGES.

XIX. *An unlimited franchise* is an advantage which a public monopoly possesses as a rule over private monopolies. The point is well brought out by Mr. A. R. Foote of the Census Department, who claims that a public plant has economic advantages over a private company at present in the fact that the franchise of the public plant is unlimited, exclusive, and unrestricted. Unlimited because successful public ownership will probably never be abandoned; exclusive because government tends to complete supremacy in its sphere of action;



and unrestricted because free to adopt all improvements. The advantages of such a franchise economically and politically are sufficiently obvious. It is the necessity of effort to prevent invasion of franchise, and to secure enlargement or renewal of it that keeps private companies in politics. It is not quite true, however, that the franchise of a public plant is unrestricted, as may be seen from the large number of electric works that would like to do commercial lighting but are not allowed to. Public franchises ought to be less restricted than they are, and will be, as the people come to understand the situation more thoroughly. The great advantage of public ownership in this relation lies in the fact that public plants can be trusted with unlimited, exclusive, and unrestricted franchises while it would not be safe to accord such franchises to private companies.

#### HIGHER REGARD FOR LABOR.

UNDER PUBLIC OWNERSHIP THE WORKERS ARE CO-PARTNERS.

XX. *Better Treatment of Labor* is one of the chief recommendations of public ownership to the mind of a philanthropist, a democratic philosopher, or a workingman. The tendency shows itself in shorter hours and longer wages, better provision for safety and comfort, larger liberty and care for accident and old age. Public ownership puts Labor above Capital. Private ownership puts Capital above Labor. Men before money in one case; money before men in the other.

The Brooklyn Bridge record of \$2.75 for an 8 hour day on the public cars, while the private companies, running over the same bridge, pay \$1.50 to \$2.30, or an average of less than \$2 for 10 hours, shows the tendency of public ownership in this regard.<sup>1</sup> The Bridge Railway also gave its men a two weeks' vacation on full pay, rubber coats and gloves and two uniforms a year, free medical attendance in case of injury, and usually half their regular wages as long as needed. The employees of the private roads have none of these advantages. When Glasgow took over the tramways, hours were reduced 2 to 4 hours a day and 24 to 38 per week, or over 30 per cent.; wages were raised 2 shillings a week (two years later

<sup>1</sup> The wages given are those of the train hands. A comparison of engineers and firemen's wages in 1897 showed \$4 for engineers and \$2.37 for firemen for an 8 hour day on the public trains, while the L roads in New York and Brooklyn paid \$3 to \$3.50 for a 10 hour day to engineers and \$1.75 to \$2 for firemen.

another increase was made, amounting to a 25 per cent. advance), and two uniforms a year were supplied to each man free—a voluntary improvement of the conditions of labor exactly contrary to the policy of the private companies. The public tramways of Huddersfield pay higher wages for 8 hours work than are paid by the private companies in surrounding places for 12 to 14 hours. Sheffield, on taking the tramways, increased wages over 10 per cent. and provided uniforms for its men. The municipal gas works of Wheeling and Richmond both pay more for common labor than the competitive rates in their localities, and the Chicago electric plant has been criticised by the opponents of municipal ownership for employing two shifts, with short hours, at \$2 a day, instead of working the men in one shift at \$35 to \$50 a month, as the private companies do.

A private corporation usually cares little about its ordinary workmen. They are only part of its tools and the part most easily and cheaply replaced. But with a public corporation it is different. Well-paid labor and contented citizenship are of the first importance to the community, and the employees are part of the people for whose benefit the municipal railway or other public institution exists, are partners in it, in fact, with a share in its control, and the consequence of these united facts is a powerful tendency to shorten hours, raise wages, provide for protection from storm and accident, establish the rights of promotion for merit and security from unjust discharge, and recognize the right of organization, freedom of petition and independent political action.

Years of careful study of the attitude of public and private corporations toward laboring people led me, in a series of articles on Street Railways in 1897, to make the following comparative statement of

#### Labor's Interest in Public Ownership.

##### *Private Ownership Means*

✕ Long hours and low wages for workers.  
 Short hours and big salaries for managers.  
 Denial of the rights of organization and petition.  
 Oppressive regulations for private interest and caprice.  
 Insecurity of employment—arbitrary discharge at the whim of a petty boss.  
 Strikes, boycotts, blacklists.

Carelessness of the conditions of labor, men bought as commodities at the lowest market price and thrown away like old clothes when the value is worn out of them; no protection from cold and storm; no provision for the worker in case of sickness and old age, nor for his family in case of his death; no sympathetic treatment of the workers as partners and brothers or even as valuable live stock, but merely as money-making tools that can be replaced at little if any cost.

##### *Public Ownership Means*

✕ Short hours and high wages for workers.  
 Reasonable hours and moderate salaries for managers.  
 Full recognition of the rights of organization and petition.  
 Moderate regulations for the public good.  
 Greater security of employment and a growing movement toward making it absolutely secure.  
 Petition, investigation, redress, with the ballot as the final resort.  
 A definite and persistent policy of improving the conditions of labor, appointing and promoting for merit and service, protecting employees from storm and injury, providing for sickness, old age and death, recognizing that a contented, well-fed citizenship is of the first importance; that men are worth more than money; that 4,000 happy homes in moderate circumstances are better than 20 luxurious palaces and 3,980 tenements plinched by poverty.

High fares, curtailing the use of the roads by the working people, and compelling them to live in crowded tenements near their work.

Large profits to a few, adding to the disturbance of wealth diffusion which constitutes the main grievance of labor to-day.

Mastership and moneyed aristocracy.

Low fares, enabling the working people to live at a distance and relieving the pressure in the tenement districts.

Profits for the people—no overgrown fortunes for the few; tendency to wealth diffusion and removal of the greatest danger of present industrial conditions.

Partnership, democracy, fraternity.

When the street railways are owned by the public every laboring man in the city will be a partner in the business, a co-owner of the plant.

The roads will belong to him as much as to the richest man in the community. He will have an equal vote in determining their management. He will share the benefits of the system in the shape of cheaper transportation, public utilities bought with the profits that accrue to the municipal treasury, larger freedom, greater security and increased remuneration of labor.

One may get a clear view of the relations of public and private enterprise to the labor question by comparing the Boston police with the street railway employees:

A full-fledged policeman gets \$1,200 a year.

The policeman has an excellent chance of promotion, one in each seven members of the force being an officer enjoying a salary of \$1,400 to \$2,800.

The policeman is on duty ten hours day or seven hours night.

The policeman is secure in his position during good behavior.

The police board may retire a policeman on half pay after twenty years service in case of disability, and shall, upon request, retire him on half pay at 65, or, in case of permanent disability, by accident, etc., in the service.

The police are free to organize, to petition, to vote as they please, to speak their minds on any public question.

The superintendent of police gets \$3,500 a year as the agent of the people.

A full-fledged conductor or motorman gets \$800 a year if he loses no time.

The conductor and motorman have little or no chance of promotion.

The conductor or motorman is on duty more than ten hours whether his service is day or night.

The conductor or motorman may be discharged any moment at the whim of a petty boss.

The conductor or motorman, when old or disabled, is dropped like a burnt-out fuse.

The conductors and motormen organize at the risk of discharge, petition with little chance of fair consideration, strike with small probability of accomplishing anything but loss of wages for all concerned, and permanent dismissal, with blacklisting, perhaps, for the leaders, and are often afraid to vote or speak on public questions according to their independent judgment, for fear the company management may deem their action adverse to corporate interests, and mark them for dismissal.

The president of the West End is said to receive \$25,000 a year as agent of the company.

One of the most striking contrasts under this head is brought out by a comparison of the treatment of employes by the Western Union Telegraph monopoly, on the one hand, and by the English postal telegraph and our own post office on the other.

The heaviest count in the indictment of the present telegraphic system in America is the *ill treatment of employes* and the general *abuse of the employing power*—child labor, overworked operators,

long hours and small pay for those who do most of the work; short hours and big pay for those who manage and scheme; less wages to women than to men for the same work; favoritism and unjust distinctions between men in the same service; a settled policy of reducing wages and increasing work; denial of the right of petition, the right of organization and the right to consideration because of long and faithful service; fraud, oppression, merciless discharge, blacklisting, boycotting, breaking agreements, treating men as commodities to be bought at the lowest market price and thrown away like a sucked orange as soon as the company has squeezed the profit out of their lives—such are the items, or some of the items, under this vital count.

The employment of thousands of little boys, twelve to sixteen years old, is a very serious wrong. These children ought to be in school, not in the street. One of the best things about public business is that it does not impose the burdens of toil upon childhood. In the post office the carriers are men, not boys. There is no better measure of the difference in the spirit of public enterprise and the spirit of a great private corporation, than is to be found in the contrast between the fine looking men who act as messengers for Uncle Sam, 8 hours a day, on salaries of \$600, \$800 and \$1000 a year, and the little mind-starved, opportunity-cheated boys that act as messengers for the telegraph companies, 10 to 16 hours a day, on salaries of \$2 or \$3 a week.

The contrast between the operators and the carriers is scarcely less intense. In the cities, 9 and 10 hours constitute a day's work for an operator, but elsewhere the day is from 12 hours up. The majority of operators work 12 and 13 hours, some work 16 and 18 hours, and at times 20 hours.<sup>2</sup> Yet the labor of an operator is so confining and exhausting that life and health do not ordinarily stand the strain very many years, and Mr. Orton, a former president of the Western Union, told a committee of Congress that no operator should work over 6 hours a day. A few operators get \$75 or \$80 a month, but nine-tenths of the operators of the Western Union are paid from \$15 to \$40 a month,<sup>3</sup> and girls are employed as low as \$12. United States mail carriers, on the other hand, work 8 hours at far less exhausting labor and receive from \$50 to \$84 a month—\$84 always after the second year. And this is not the end of the contrast by any means, as the following table shows: <sup>4</sup>

Quite as emphatic is the contrast between the English public telegraph and the Western Union. Here are the facts in parallel columns:

<sup>2</sup>Blair Rep. U. S. Sen., Vol. 1, p. 119, 125, 150, 156; I. T. U. Hearings, p. 59.

<sup>3</sup>Postmaster General Wanamaker's Arg., 1890, p. 141.

<sup>4</sup>The clerks in the postoffices are not included in the comparison for in the mass of the offices they are not federal employes, but are hired by the postmasters who really stand to the government in the relation of contractors. In 3d and 4th class offices the clerkage is entirely in the hands of the postmaster and in 2d class offices the government exercises only a slight supervision over the matter. The postoffice is not yet fully publicized, but so far as it is public it makes an excellent record. (See table next page.)



## WESTERN UNION.

Two big strikes in a quarter of a century. Serious losses and interruptions of business. Large drops in wages and progressive mal-improvement of conditions of labor. Poor service and discontented employees.

Persistent policy of lowering wages and increasing the burdens of the workers. The managers took advantage of the defeat of the men in the great strike of '83 to rearrange matters so as to get "one-third more work out of a man for a days service." (Pres. Green's words. Wan. Arg., p. 221.)

The Blair Committee of the United States Senate found that the Western Union had pursued a systematic policy of reducing wages by filling positions vacated by death, resignation, transfer or discharge with new men at salaries \$5 or \$10 below the pay of former occupants; that the reduction had amounted to 40 per cent. from 1870 to 1883, and that all the while the hours of labor were increasing and the profits of the company growing larger.

Organization frowned upon. Employment insecure. Promotion at a minimum. Long service rewarded by dismissal to make room for the cheaper labor of a boy the old operator has taught to do his work. No provision for sickness, disability or death.

## ENGLISH TELEGRAPH.

No strikes. Harmonious uninterrupted operation. Large increase of wages, and progressive improvement of conditions of labor. Superior efficiency of well treated and contented workers.

Persistent policy of Postal Telegraph Department from first to last to raise wages, shorten hours and add to the privileges of labor.

Since 1870, when the government took the telegraphs, wages have risen from 39 per cent. to over 72 per cent. of the total revenues. As a rule, the salaries of telegraphers in England have been raised \$150 to \$200 each since 1881 and hours have been shortened one-seventh, the present hours being eight in the day time or seven at night for six days in the week.

Employees free to organize. Employment is secure. Merit finds promotion. Long service is rewarded with increased pay. And liberal provision is made for pensions in case of sickness, disability and old age.

Note 4 continued—

## Private Telegraph and Public Post.

	TELEGRAPH OPERATORS.	POSTAL CARRIERS.	RAILWAY MAIL CLERKS.
Average pay per month.....	\$40 to \$50.	\$75.	\$84.
Average hours.....	9 to 16.	8.	5 to 8.*
Promotion .....	For merit, rare.	For merit the rule.	
Length of service.....	Not recognized as giving any claims to increase of pay, or continuance in employ.	Clearly recognized as giving a valid title to increase of pay, retention and preferment.	
Tenure.....	Precarious,—dependent on individual whim and arbitrary power of an irresponsible superior.	"Freedom from removal except for inefficiency, crime, or misconduct."**	
Rights of petition, organization, etc.....	Denied.	Accorded.	

\*The daily train run of a railway postal clerk is 4 to 6 hours. (Postmaster General's Rep., 1892, p. 523 et seq.), but the clerk is obliged to devote some further time to making reports, checking records, preparing supplies for the following trip, etc. A carrier receives \$600 the first year, \$800 the second year, and \$1,000 the third. Between four and five thousand of the seven thousand railway clerks receive \$1,000 to \$1,400 each, and fifteen hundred more receive \$900 each. The postoffice does not seek to buy labor at auction, but aims to pay as much as it reasonably can, regardless of the price of labor at forced sale in the markets of competition.

\*\*Statement of Postmaster General John Wanamaker, 1892, Rep. p. 501. not merely as the aim, but as the actual condition of the railway mail service a condition which had produced great improvement in the service. Postmaster General Bissell, 1894 Rep., p. 395, says: "The civil service laws and regulations as applied to the Railway Mail Service accomplish all the most sanguine expected," and goes on to speak in the highest terms of the fine quality of appointments, the high efficiency, the permanence of employment, and the promotion for merit, secured under the civil service rules.



The following paragraph from the Telegraphers' Advocate, Nov. 6, 1896, expresses the feeling of the great body of employees in this country in respect to the advantages of public service:

"The mail carriers sent a delegation to Washington not long since to see the Postmaster General. Think he will refuse to receive the committee? Think all the mail carriers in the United States will have to strike in order to get their organization 'recognized?' Oh, this government service is fearful—short hours, good pay, live where you please, vote as you please, no wage-cutting, no reduction in force, no strikes, lockouts or blacklists. It's just awful, so it is. No self-respecting operator could stand it."

Under private ownership labor has no means of redress but the strike, and that is often disastrous to the employes as well as to the public; witness Brooklyn, Philadelphia, Boston, etc.

Organized labor fully recognizes the evils of private monopoly and the advantages of public ownership, and the American Federation of Labor, representing a vast body of workers, adopted the following resolution at its annual convention in December, 1896: "Resolved, That the sixteenth annual convention of the American Federation of Labor urges upon all the members of affiliated bodies that they use every possible effort to assist in the substitution in all public utilities—municipal, state and national, that are in the nature of monopolies—public ownership for corporate and private control."

The reader may find it helpful to carry with him the following comparisons. They are not the strongest that can be made, for the right hand column does not represent the extremes of low pay or long hours in private corporations, and even as averages the hours are understated, being the theoretical and not the actual hours, which often run 10 to 20 per cent. over the theoretical day. The contrasts, however, are crisp and clear and easily remembered, and all the more forceful from the fact that they are not the extremes:

Hours and Wages under Public and Private Ownership.

	PUBLIC.		PRIVATE.		
	Average hours per day.	Average pay per year.	Average hours per day.	Average pay per year.	
Railway Mail Clerks ...	7	\$1030	12	\$546	Western Union Operators, Conductors and Motormen, Philadelphia Street Railways. St. Louis about the same. Trainmen on New York and Brooklyn L. Roads. Employees West End Street Railway, Boston.
Postal Carriers.....	8	900	12	720	
Brooklyn Bridge Railway Trainmen.....	8	1000	10	700	
Boston Police.....	7½	1210	10	520	

## NO INDUSTRIAL RIOTS OR REBELLIONS.

XXI. *No costly strikes and lockouts* adorn the history of public works. Diligent inquiry has brought to light only two strikes in public institutions, one among the trimmers of a municipal lighting plant, and the other among the employes of a post-office who were not really public employes, but contractees of the postmaster. Neither strike occasioned any serious loss. Compare this record with the following items relating to strikes in private industry:

Losses Occasioned by Strikes.

	Loss to Employes.	Loss to Employers.	Loss to Public.	Total.
New Orleans Street Railway Strike, 1892.	\$500,000	\$750,000	\$5,000,000	\$6,250,000
New York Street Railway Strike, 1889...				1,707,000
Reading Strike, 1887.....	3,620,000	1,000,000	700,000	5,320,000
Gould Strike, 1886.....	1,400,000	3,180,000		
Chicago Strike, 1894.....	1,739,000	5,355,000	80,000,000	87,037,000
Telegraph Strike, 1883.....	250,000	709,300		
1881-6, 3902 strikes involving 22,304 establishments and 1,332,200 employes	51,814,700	30,701,500		
1887-94, 14,389 strikes involving 69,166 establishments and 3,714,230 employes	163,807,657	82,587,786		400,000,000(?)

Most of the figures are taken from government reports. For the Chicago strike the estimates of loss for employes and companies were made by the United States Commission, the loss of the country at large is Bradstreet's estimate. The strike was caused by a 25 per cent. reduction at Pullman on wages already down to an average of \$613 a year, with a large class making far less than that. The United States report says: "Some witnesses swear that at times for the work done in two weeks the employes received in checks from 4 cents to \$1 over and above their rent. (They lived in Pullman's houses, and he did not reduce the rent when he cut wages.) The company has not produced its checks in rebuttal." There was rioting and destruction of life and property; over 700 persons were arrested for murder, arson, burglary, assault, intimidation, riot and violation of the United States statutes.

The railway strike of 1877 was caused by a 10 per cent. reduction in wages already low. There was rioting, with loss of life, at various places. The state militia at Martinsburg and Pittsburg refused to fire on the strikers, and United States troops were called out. In Cincinnati, Toledo and St. Louis mobs of roughs and tramps succeeded in closing shops, mills, etc. At Pittsburg the crowds resisted the troops and 22 persons were killed in one day. Cars to the number of 1600 and 126 locomotives were burned. The loss at Pittsburg alone was estimated at \$5,000,000.

If the people owned the roads would they burn their own property? If the railway men and street railway men were part owners

and directors in the roads, would they not vote instead of striking? If the public managed the monopolies would they disregard the rights of labor, and then refusing to arbitrate produce 2000 strikes a year, with a total loss of 350 or 400 millions? History and psychology and common sense say, No.

## CO-OPERATION.

XXII. *Public ownership is a step toward co-operative industry.* A public business soon becomes substantially an all inclusive co-operation in itself. I presume that no co-operative undertaking of any sort has more universal and hearty good will of those concerned in it than have the national post-office or the schools and parks, water-works and fire departments of our cities.

## COHESION.

XXIII. *Social strength* and cohesion will be aided by public ownership. The water, gas, electricity, railways, telephones, and telegraphs are food, light, arteries and nervous system for the body politic, and a being that controls its own food supply and has possession of its own nerves and blood vessels is more likely to be well and strong than a being whose supplies and means of communication and distribution are owned and controlled by somebody else.

## PUBLIC ASSETS—CITIZENS' RICHES.

XXIV. *Ownership of useful property is in itself an advantage* to a municipality or a state. A man is better off when he owns a good business himself than when it is owned by another, and the same thing is true of a city. Mr. Dow, formerly of the Detroit electric plant, and now of the Edison Company in the same city, puts the matter well when he says: "If a municipal plant is operated and managed in good running order, at such a figure as, added to interest, sinking-fund, and lost taxes, will equal, or rather not exceed, the contract cost of lighting, there is a gain to the taxpayers in municipal lighting, *directly by reason of ownership of a marketable asset, free from incumbrance at the winding up of the sink-*

*ing-fund; and indirectly by the retention of the depreciation fund in the active business of the taxpayers.”<sup>1</sup>*

#### DIFFUSION OF WEALTH AND POWER.

XXV. *Diffusion of benefit* is one of the most important of all the advantages of public ownership. The public schools and the post office, municipal water and gas and electric light works, fire departments, and public railways, telegraphs and telephones, do not figure in the biographies of millionaires.<sup>1</sup> The Tribune list of sources of the fortunes of millionaires and polly millionaires does not mention these things nor speak of any public business whatever in that connection, but it has much to say of private railways, telegraphs, telephones, and express companies, gas works, water works, ferries and street railways.

Low rates and good service, smaller salaries, larger wages and shorter hours, no lobby-work, no rebates, no stock,, true capitalization, profits paid into the public treasury—everything about public ownership tends to the diffusion instead of the congestion of wealth and opportunity. The following words of Justice Marshall in a great monopoly case in Ohio, ought to be framed in gold and hung in every legislative hall and council chamber.

“A society in which a few men are the employers and the great body are merely employes or servants, is not the most desirable in a republic; and it should be as much the policy of the law to multiply the members engaged in independent pursuits or (sharing) in the profits of production, as to cheapen the price to the consumer. Such a policy would tend to an equality of fortunes among its citizens, thought to be so desirable in a republic, and lessen the amount of pauperism and crime.”<sup>2</sup>

<sup>1</sup> Western Electrician, Feb. 22, 1896.

<sup>1</sup> The reader must not understand that I have the slightest prejudice against millionaires. At least half a dozen among the people for whom I have the profoundest respect and admiration are millionaires. I speak of millionaires as an evil economically because the congestion of wealth is bad. A community in which a few men are very rich while a large class at the bottom is very poor, is not so good as a community where wealth is more evenly diffused so that *all* are in moderate circumstances or well to do, and a system that develops millionaires at the top and tramps and slums at the bottom is not a good system even tho the personality of some of the millionaires may be as fine as any to be found in the middle classes.

<sup>2</sup> Supreme Court of Ohio, 49 Oh. St. at 187.

In New Zealand the progressive land, income and inheritance taxes, and the public ownership of railroads, telegraphs and telephones has gone far toward preventing the growth of enormous fortunes and stopping the concentration of wealth in few hands.<sup>3</sup>

#### PROGRESS.

XXVI. *Progressiveness* of the best sort is apt to characterize public enterprise. There are two kinds of progressiveness. The progressiveness that adopts whatever will produce more dividends is perhaps less intense in the majority of public plants than in the offices of private companies. This is certainly true in the case of industries open to private initiative. The fresh blood of vigorous competition keeps such industries close to the front. But remember that public ownership is not contrasted here with all private business, but with private monopoly; and private monopoly bars out private initiative far more effectively than public monopoly does, for any one in the community may suggest an improvement in a public service with a chance of being cordially heard, and if the public ownership is rounded out with the initiative and referendum, a few people can secure the discussion of any desired improvement and bring its adoption to vote by those most interested to have every reasonable improvement possible, viz: the people served by the plant and responsible for its expenses.

When we turn to the sort of progressiveness which aims at improvement in the usefulness of the works to the community, or the greater safety of the service whether monetary gain results to the business or not, then there is no question but that public ownership greatly excels the private monopolies. Such improvements if made at all by such monopolies generally have to be forced upon them by public action or a rebellion of their employees.

As a matter of fact, allowing for differences in individual cases due to variations in the personal equation of the management, the

<sup>3</sup> Letter from Henry D. Lloyd who has just returned from a visit to New Zealand.



history of public roads and fire departments, water, gas and electric light works, shows a very commendable spirit of progress even on the purely economic side of the question. The water works of Syracuse, the federated system of the Metropolitan Water District in Massachusetts, the electric plants of Allegheny, South Norwalk, Dunkirk, Peabody, and Detroit, and the gas works of Richmond and Wheeling will compare favorably with the best private works in regard to their progressiveness and its results under the conditions in their respective localities. Summing up his investigations of all the public gas plants in the United States Professor Bemis says: "Progressiveness is characteristic of all the plants save Alexandria."<sup>1</sup> While my studies of electric plants do not warrant quite so sweeping a generalization, yet the returns year after year certainly indicate a definite, systematic and successful effort to keep abreast of the times with both sorts of progress, in at least four-fifths of the large number of public plants whose reports I have seen. In some cases the strength of the progressive spirit is quite remarkable. Topeka, for example, built electric works in 1887 and found them poor, so bad in fact that Topeka has been held up as a warning to municipalities not to trespass on the preserves of monopolists. But in spite of her poor plant Topeka made light at a total cost of \$100 per arc interest, taxes, depreciation and all, saving \$20 per arc on the price she had paid a private company, and in May, 1896, she entirely rebuilt the plant with modern machinery, and now the operating expenses are only about \$40 per arc and the total cost \$60, with a management that is a credit to the city and a source of pride to her citizens. Even Chicago in the last few years has brought her electric record up from one of the most criticized to one of the most admirable, as we shall see when we speak of objections. The Brooklyn Bridge and the Glasgow tramway managements have proved themselves extremely progressive. The former has been untiring in its efforts to increase the usefulness of the Bridge and the latter has won an international reputation for an energetic and intelligent progressiveness exceeding that exhibited by any private tramway company in Great Britain. Glasgow not only sent a committee all over the civilized world to study the best methods of street railway service but she made it a definite purpose to use the roads to relieve the congestion of the tenement districts by arranging rates and runs so as to encourage tenement dwellers to move out of the city, and bring suburban homes within the reach of the poorest classes; a matter of the utmost moment to which private companies give no heed unless compelled to do so by public law or the necessities of a franchise agreement.

Our post office is all the time introducing new ideas and better

<sup>1</sup> Municipal Monopolies, p. 620. See also p. 610 where the Professor speaks of the Richmond Management as "very progressive," and p. 612, where after stating the details of the Virginia plants, he says, "Save perhaps in Alexandria, progressiveness is everywhere apparent."

methods. It has availed itself of the stage coach, canal boat, steamship, way train, lightning express, pneumatic tube and gravity chute, and it is not the fault of the Post Office Department that we cannot send letters by telegraph. Postmaster General after Postmaster General has urged upon Congress the claim for a postal telegraph but the Western Union vetoed the measure and the Western Union has more influence in Congress than the post office or the people.

Inventors are better treated under public ownership. The public does not steal or suppress inventions but encourages and remunerates them. In our road departments, fire departments, war department, etc., new ideas are eagerly welcomed. Never is an inventor so sure of just reward as when his improvement applies to a public business.

While the Western Union has been suppressing inventions the English postal telegraph has been encouraging and adopting them. England has adopted the telephone, the multiplex and the automatic in her telegraph system, doing at least half her telegraphing with the latter, and the department is always pushing forward to new improvements. The Western Union has done very little with any machine system, nothing with the multiplex, and refused the telephone entirely though it might have had it for a song. The English telegraphic engineers stand in the front rank. The Western Union sent for one of them to come to the United States and examine its lines and instruct it what to do with them, and he found the said lines in bad condition and told the Western Union how to doctor them. The English electricians have not deteriorated because of the transfer of the telegraph to the government. The government electricians are among the leaders in the new movement to perfect a system of telegraphing without wires. They are just as anxious to discover improvements as ever—more so, in fact, because they are surer of appreciation and reward. The public service is more progressive than our private service and therefore promises more to progressive men. England welcomes telegraphic invention because she aims at service. The Western Union aims not at service, but at money, and welcomes only such inventions as will help her make more money without an overwhelming sacrifice of her investment—if her moneyed interests are endangered, no matter how greatly the discovery would improve the service, she frowns upon it, boycotts and imprisons it.

#### BEAUTY.

XXVII. *Aesthetic development* will be aided by public ownership. Compare the broad pavements and symmetrical front of the post office building on Ninth street, Philadelphia, with the narrow walk and jagged conglomerate of ugly build-

ings on the opposite side of the street. Compare the Fairmount Water Works with the stations of the electric companies. Compare the capitol grounds at Washington with the railway depots. Recall in delightful memory the exquisite beauty of the "White City" at Chicago, the home of our greatest exposition and at heart a public undertaking (much of the best work and planning done without pay as well as in public service), saturate your vision with its wonderful symmetry, harmony, beauty of form and color, nature and art, and then go down into Chicago and look at the narrow, dingy, dirty, ugly, hiddledee piggledee, planless, disreputable streets that private enterprise has built. No one with the love of beauty in his soul could go from the dream of the City by the Lake to the nightmare of Clark street, without feeling that the same men and women were totally different beings in Clark street from what they were in the White City, and that life would be infinitely nobler if the spirit that created the Beautiful City could transform the discordant streets of the cities of traffic into habitations fit for man. Any thoughtful man who will make the comparisons suggested, or others of a similar nature, will see that when men ease up a little on the rush for wealth and begin to think of life and service as well as money, whatever they touch grows beautiful. Beauty is its own best justification, a primal good in itself, a source of happiness per se, a utility of the highest order. No promise of public ownership appeals to me more than the prophecy of art, art in daily life, trees, birds, flowers, light, air, blue sky and rippling water for all the children of men.

#### MORALITY.

XXVIII. *Moral development* no less than æsthetic progress is favored by public ownership. The change from profit to service as a motive and aim, is in itself a moral transformation of most vital moment. The hand of business no longer strikes the selfish chords alone, the altruistic chords are sounded with those of self, and the two learn to vibrate together in harmony. When self-love learns that its richest naths lie thru the fields of other-love, morality has won the

mind, and when sympathy, thru harmonious living, gains strength enough to rule the life, morality has won the heart.

The war between the people and the monopolies is opposed to the growth of sympathy and brotherhood. Private monopoly is anti-christian and anti-moral, as well as anti-legal. Even the evils of intemperance may be banished more certainly thru public ownership and co-operative industry and the diffusion of wealth and comfort consequent upon them, than thru any direct attack, for as Frances Willard well said, the real sources of intemperance chiefly lie in the poverty and ill-life caused by improper industrial conditions.

#### MANHOOD.

XXIX. *Manhood* of some sort is constantly being evolved along with the gas, electric light, transportation or telephone service in every public or private plant. Thru wealth diffusion and awakening of civic interest, thru better treatment of labor, co-operative effort, æsthetic development and moral improvement, public ownership not only leads directly to a nobler manhood, but produces conditions favorable to the rapid growth of a New Political Economy and a New Conscience that shall recognize manhood as the supreme product of an industrial system and demand intelligent scientific and persistent effort to subordinate all other objects, and adjust all powers of industry, education, and government to the development of the highest character and the noblest manhood.

#### LIBERTY.

XXX. *Liberty* of thought, of speech, and of action,—liberty of press, pulpit, college, court, legislative hall, market, family, voter and workingman, will be aided by the downfall of the great private monopolies that hold them all in thrall.

#### DEMOCRACY.

XXXI. *Democracy and self-government* are not merely favored by public ownership; public ownership is democracy and self-government in industry, and is *essential* to democracy

and self-government in political and social life. You are not the equal of Vanderbilt or Rockefeller before the law or in the government of the country, and cannot be while they own railroad systems and oil monopolies and you do not. A workman who is dependent on monopolists for opportunity to earn his daily bread is not free even to cast his vote as he wishes. He may be *freer* than his brothers of the feudal age, but he is not *free*. Our government is more nearly a democracy than the government of King George, or Charlemagne, or Caesar, but it is not a democracy, and cannot be while one man owns 200 millions and another man owns nothing. Our constitution provides against titles of nobility, but many of our monopolists have aristocratic power over larger masses of men than many a Duke or Marquis controlled in the olden time. Our gas and electric magnates, street railway, telegraph and telephone princes, railroad and oil emperors, are just as truly aristocrats as if born with titles. Jay Gould is reported to have said that he had rather be president of the Western Union than President of the United States, and no wonder—the chief executive's powers, except in time of war, and his chances at any time of fleecing the people to line his own pocket were insignificant compared to those enjoyed by the Czar of the Telegraph.

The American people would be indignant if any one should charge them with favoring royalty, creating and sustaining dukes, marquises, lords, and earls, or meekly submitting to titled aristocrats of any grade. There would be a revolution if Congress should confer the title of lord, or duke, or earl, on Vanderbilt, Gould, Rockefeller, Morgan, Sage, etc. Lord Gould, Lord Rockefeller, Duke Morgan, and the rest would soon find the country too warm for their habitation. Yet the essence of royalty and aristocracy is not in the title but in the overgrown power which one man possesses over his fellows. A Congress that grants railroad, telegraph, and banking privileges to private individuals, establishes a far more powerful and therefore more dangerous aristocracy than any that could possibly be created by the mere bestowal of titles of nobility.



## UNITY OF INTEREST.

XXXII. Finally the fundamental and all-pervading advantage of public ownership is that it *removes the antagonism of interest* between the owners and the public, which is the vital cause of all the evils of private monopoly. (See above, "The Root of Evil," and "The Real Solution.")

## METHOD.

Having ascertained the advantages of public ownership, the next question is how to secure it.

*First*, The city or town must have *authority*, either by constitutional provision or by general law or special act of the legislature. A general law according all municipalities the right to build or buy, own and operate any public utility is next best to a constitutional provision, but is difficult to pass. The easiest plan is to push partial measures one after another, a water act first, then a gas and electric light law, then a street railway act, etc.<sup>1</sup> In this way the opposition of the monopolists is divided, one section being dealt with at a time, whereas a blanket law at the start encounters their united battle. After the partial measures have been separately secured, they can be easily condensed into a brief and sweeping law.

While the statute provisions are well worth working for, they are far inferior to constitutional provisions, because they are always open to modification or repeal at the whim of a corporation legislature, and even the courts sometimes make trouble. One of the rules of law is that a legislature cannot sanction a government enterprise except for a "public purpose," and it is for the courts to say what constitutes a public purpose, and a court may now and then make an arbitrary decision.<sup>2</sup>

<sup>1</sup> In asking for the passage of such laws the fact should be emphasized that they are merely *permissive* measures.

<sup>2</sup> There is an opinion by a Mass. court (Opinion of Justices, 155 Mass. 601) to the effect that the legislature could not authorize *municipal fuel yards*, the sale of coal and wood not being a public purpose in the opinion of the majority of the court, the ground of decision being that buying and selling coal did not differ from buying and selling other commodities in general, and the judges thought it would be bad policy to open the door for municipalities to go into mercantile business. In a strong dissenting opinion Judge Oliver Wendell Holmes, now Chief Justice of Mass., used these words:

"I am of opinion that when money is taken to enable a public body to offer to the public without discrimination an article of general necessity, the

Probably the most emphatic proof of the need of constitutional provision in favor of public ownership is to be found in the recent "Internal Improvement" decision in Michigan. The State passed a law authorizing Detroit to purchase street railway systems lying wholly or partly within the city limits. Councils appointed a commission, with Gov. Pingree at its head; the details of the transfer were arranged, and the matter was ready for a referendum vote when the proceedings were arrested by a decision of the State Supreme Court that the law permitting Detroit to own and operate her street railway system is not constitutional, because the Michigan Constitution, § 9, Art. 14, says: "The State shall not be a party to or interested in any work of internal improvement nor engaged in carrying on any such work, except in the expenditure of grants to the State, of land or other property." The court holds that as the State cannot own internal improvements, it cannot authorize a city or town to own them. "This would enable the State to do by means of agencies called into being by itself, what it cannot itself do, and what the constitution

purpose is no less public when that article is wool or coal than when it is water or gas or electricity or education, to say nothing of cases like the support of paupers, or the taking of land for railroads or public markets."

In 150 Mass., 592, the supreme court held that the legislature could grant municipalities the right to make and sell gas and electricity, on the ground of the *general convenience* of the service, the *impracticability* of each individual's rendering the service for himself, and the *necessity of using the streets* in a special way, or *exercising the right of eminent domain*; whereas the buying and selling of coal and wood does not require special use of the streets, nor the right of eminent domain, nor the exercise of any other franchise or authority derived from the legislature.

In dealing with sewers, water, gas, and electric works, etc., courts have sought to strengthen their conclusions by reference to the necessity of a special use of the streets, or other action requiring legislative authority; but they did not decide that a purpose could not be a public one without this element; on the contrary, schools, libraries, museums, lodging houses, hospitals, baths, scales, markets, etc., do not require any special use of the streets nor any franchise or rights of eminent domain, but can be established by any one without legislative authority. As to impracticability, it is as impracticable for each individual to establish a coal-yard, and get coal from the mines at reasonable rates, as it would be for each individual to supply himself with schools, libraries, baths, hay-scales, etc.

It has been held that roads, bridges, sidewalks, sewers, ferries, markets, scales, wharves, canals, parks, baths, schools, libraries, museums, hospitals, lodging-houses, poor-houses, jails, cemeteries, prevention of fire, supply of water, gas, electricity, heat, power, transportation, telegraph and telephone service, clocks, skating-rinks, musical entertainments, exhibitions of fireworks, tobacco warehouses, employment offices, etc., are public purposes, and proper subjects of governmental ownership. (See *Cooley on Taxation* and cases cited. A municipality may be authorized to build and own a street railway, such railway serves a public purpose. *Sun Printing and Pub. Assoc. vs. New York*, 46 N. E. Rep., 499, April 9, 1897. Cities and towns may be authorized to establish and operate gas and electric light works. *New Orleans Gaslight Co. vs. La. Light Co.*, 115 U. S., 659, 670, 683. *Opinion of Justices*, 150 Mass., 592. *Citizens' Gas Light Co. vs. Wakefield*, 161 Mass., 432. *Crescent City Gas Light Co. vs. New Orleans Gas Light Co.*, 27 La. An., 138, 147.)

On running thru the cases to find if possible, a common ground of decision, it appears that whatever is of general utility or convenience to the community constitutes a public purpose.

forbids its doing."<sup>1</sup> This sounds plausible, but is in fact wholly fallacious. An essential qualification is omitted from the statement (just quoted) of the principle on which the court bases its conclusion. The prohibition in respect to internal improvements is upon the *State*, not upon cities; and the mere fact that the State cannot do a certain thing does not prevent its authorizing others to do that thing, *unless the reason of the prohibition on the State is that the said thing is wrong in itself*, which is clearly not the case with internal improvements.<sup>2</sup>

<sup>1</sup> Attorney Genl. v. Pingree, Supreme Ct. Mich., 79 N. W., Rep. 814.

<sup>2</sup> The logic of the decision would prevent the legislature from authorizing the ownership and operation of railroads, street railways, telephones, etc., by private corporations as well as by municipal corporations. The private corporations of Michigan are as much agencies called into being by the legislature as the cities are; and if the State, under Sec. 9 of Art. 14, cannot authorize an agency called into being by itself to do any act the State can't do, then the said Sec. 9 prevents it from authorizing a private corporation to own and operate a street railway in Michigan. The fact is that the inability of the State to do an act, does not prevent it from authorizing a city or other party to do the act unless the prohibition is based on the wrongfulness of the act itself. In this case the State is prohibited from owning and operating street railways, etc., not because the ownership and operation of railways is wrong per se, but because the Constitution makers believed it was not wise for the *State* to own and operate them. That this is the ground of the constitutional provision is clear, not only on its face, but upon the history of the adoption of the clause which is dwelt upon at length in this very decision. If the State cannot authorize a municipality to do an act the State cannot do itself, then the legislature cannot authorize a city to elect Municipal Water, or Park Commissioners, or otherwise manage its own internal business affairs, for the Michigan Supreme Court holds emphatically that the State cannot select such officers or manage such affairs. (*People v. Hurlbut*, 24 Mich., 44; *Board of Park Commissioners v. Detroit*, 28 Mich., 228.) If the State cannot authorize a city to do what it cannot do itself under this clause, then as the State cannot own any internal improvement, it cannot authorize a city to own water, gas or electric light works, parks, sewers, drains, fire hydrants, etc. This last point was raised and the court said that "all these things are authorized and defended because it is a proper exercise of the police power." Well the State has as much police power as the city; can it then go into the gas business, or the electric light business? Such a move would be a clear violation of Sec. 9, Art. 14, which does not make any exception in favor of water, gas, electric light, police power or anything else, except the expenditure of grants to the State.

If the law had been held void for *excess* in granting Detroit authority to own and operate street railways beyond city limits without due restrictions—if the decision of unconstitutionality had been based on the ground that the law under consideration authorized Detroit to own and operate roads beyond city limits in terms so broad that they might include a system covering the whole State, if any such system existed with lines lying partly inside of Detroit, and that a bill creating such a monopoly was contrary to the rights of other municipalities in the State, there might have been some force in the contention, altho even in that case the practical fact that the systems really intended to be purchased do not actually extend beyond reasonable limits might well be held sufficient to sustain the act. I. e., the law might be held void as to the excess when excess arises (if ever), but sustained as a good authority on the actual facts of the case. But to decide that the Constitution prevents cities from owning street railways because the State cannot own them, is an absurdity.

The argument of the decision breaks down at every point, and any one who will read it carefully will see, I think, that the judges decided as they did simply because they did not believe in city ownership of street railways. Their notion in this respect *may* be correct, but it is not well to have such a notion erected into a constitutional prohibition.

I have great faith in the courts, and have had many a battle for them with some of my friends. Even Professor Bemis thinks me very conservative on this point and perhaps I am. If so, it is because I know so well

The judges are quite as apt, however, to go to the full limits of the law in sustaining municipal ownership. Take for example the Hamilton gas case, in which it was decided that under the Ohio law permitting a city or town to erect or purchase gas works whenever the council deemed it expedient, a city could erect and operate municipal gas works, altho a private company had previously obtained a franchise and was operating in the city.<sup>3</sup>

It has also been held that the right to light the streets and public buildings and to sell (electric) light to the citizens for their houses and places of business, is within the *implied* police powers of a municipality for the preservation of property and health.<sup>4</sup>

The second point under this head is the financial one, the matter of ways and means. A city may

1. Build works;
2. Buy them outright;
3. Buy them on the installment plan;
4. Buy a controlling interest in the stock;
5. Have a provision put in the franchise whereby the plant will revert to the city free of debt and without further payment at the end of the term;
6. Or rent the works and operate them.

Works may be paid for

1. Out of earnings;
2. By ordinary taxation;
3. By assessments on property the value of which is increased by the works;<sup>5</sup>

the lofty ideals that, as a rule, possess the judges of our higher courts, this Michigan court among the rest. But mistakes will mar, prejudices will pervert, and precedents will fetter, even the thought of the best minds at times.

<sup>3</sup> State vs. City of Hamilton, 47 Oh. St., 52; Hamilton Gas L. Co. vs. Hamilton City, 146 U. S., 258, 265-8 (1892). For a similar opinion in respect to electric light see 42 Fed. Rep., 723; and Municipal Monopolies, 446.

In New York, the courts have decided that a city, in granting a franchise for water-works does not debar itself from erecting and operating a plant of its own. Mr. Baker says the Pennsylvania courts have given a contrary opinion. In Montana the courts have decided against the constitutionality of a law providing that no municipality supplied by a private company, shall build waterworks without first buying or offering to buy the works of the company.

<sup>4</sup> City of Crawfordsville vs. Braden, 130 Ind., 149.

<sup>5</sup> Thousands of owners of land in our cities and their suburbs are made



4. By income and inheritance taxes, which when *progressive* constitute a powerful means of raising funds for public purposes from those best able to pay, and at the same time are equally potent as a means of counteracting the congestion of wealth in few hands.

The amount to be paid may be reduced to a reasonable figure,

1. By making the franchise terminable at will;
2. By preventing or eliminating stock-watering and overcapitalization—prevention by drastic regulation, forfeiture of charters, etc.; elimination by requiring companies to write off liberal depreciation and call in excessive stock, or hold face capital where it is till the real value comes up to it, allowing companies a reasonable period in which to rid themselves of excessive capitalization; both prevention and elimination by *taxing* FACE and MARKET values.
3. By careful regulation of rates;
4. By thoro investigation and public supervision of corporation bookkeeping;
5. By competing works.

Publicity, reduction of rates and prevention or cutting down of inflated capital, are of the first importance. The latter is even more fundamental than the former for overcapitalization obstructs due reduction of rates. The taxation of companies upon the *face* or par value of their securities where such value exceeds the worth of the physical plant (or on the *market* value of the securities if this is higher than the face value) and other measures to prevent and reduce overcapitalization seem to me to be the thin edge of the wedge—the measures which under ordinary circumstances should come first,—as a preparation for full and effective reduction of

rich by the increase of land values thru the construction of street railways, water works, lighting plants and telephone exchanges, the laying of sidewalks and the paving of streets. It would be perfectly just under public ownership to take a part or the whole of such increase of values to pay for the works. This principle is already applied in the case of paving, sidewalks, sewers, etc., and its application could be extended to suburban railway lines, gas mains and electric light and telephone systems.



rates to a reasonable level, which, together with fair capitalization, constitutes the true preliminary to public purchase.

Under our constitutions, Federal and State, the courts require that in taking over the works of a private gas or water or street railway company the city shall pay the market value of the property, including the franchise, and the market value of the franchise depends on the length of its unexpired term and on the earnings of the company, present and prospective, so that the higher the rates the more the people have to pay for the franchise which very likely the company got for nothing.<sup>7</sup>

During the negotiations in Detroit the street railway franchises, on the basis of earnings and unexpired terms were estimated to have a value of about 8 millions or substantially equal to the structural value of the whole system, so that the people would have to pay double the worth of the physical plant. In Washington, D. C., and in Massachusetts, the street railways have no franchise terms. The grants may at any time be altered or repealed. In Mass., water works and bridges have frequently been taken for public use at or near the structural value and far below the market value indicated by their earnings.<sup>8</sup>

Efficient measures for the prevention or eradication of over-capitalization, and for the reasonable regulation of rates, are of great importance. Where franchise terms exist, such measures are often absolutely essential in preparation for a transfer to public ownership at a just price. The Mass. commission plan will do *something* toward keeping down fictitious capital, tho it lets the capital get waterlogged in the big companies, just where it is of

<sup>7</sup> Some people say that there are no longer any "innocent holders" of corporate stock, and insist that as the public may squeeze the water out of a gas plant or street railway or other monopoly by regulation of rates and capitalization or by competition, therefore it may do the same thing directly and immediately by condemning the property to public use and paying only the value of the physical plant. The trouble with this is that it is impossible and would be unwise even if possible. The courts and the constitutions are in the way.

The time-honored rules of law and established conceptions of justice are in harmony with one method and against the other. A long line of decisions and a practically unbroken consensus of opinion confirms the principle that a city taking property by eminent domain must pay its market value. And a franchise is as much "property" as a building or a railway track. Wherefore if tracks and franchise are taken, the city must pay the market value of both, which is indicated by the market value of the company's bonds and stocks, and more precisely determined by the cost and depreciation of the physical plant, and the term and earnings of the franchise. To take an unexpired franchise without compensation, paying only for the physical plant, runs counter to the judicial sentiment of the race and is therefore unwise in spite of the fact that by the deepest principles of the law the custom of granting private franchises should never have arisen. Having been granted its market value must be paid if it is taken by eminent domain. On the other hand, the reduction of market values by competition, public or private, or by the regulation of rates or capitalization, is recognized as just and proper by an equally well established set of ideas and decisions. When there are two ways of accomplishing a purpose, one of which runs counter to established ideas of justice and the other is in harmony with those ideas, the wise man chooses the latter plan.

<sup>8</sup> See cases cited in my chapter on the Legal Aspects of Monopoly, in "Municipal Monopolies," p. 463, *et seq.* In England the law allows municipalities to buy street railways at the structural value at stated periods, the ends of franchise terms, 21 years first, then at the end of each 7 years.

most importance that it should be undiluted. Laws providing for forfeiture of franchise on proof in court of serious overcapitalization might avail more than the commission method if it were also provided that suit for this purpose might be brought by, or must be brought at the demand of, twenty or more reputable citizens. The elimination of overcapitalization may be secured by requiring the companies to write off liberal depreciation and call in each year a certain amount of the excessive stock, or in some cases simply holding the face capitalization where it is until improvements and extensions bring the real value up to it. A date might be fixed after which it should be unlawful to have a face capital of bonds and stocks exceeding the actual value of the physical plant plus the patents or other privileges, honestly bought and paid for, allowing the companies 15 or 20 years for the gradual exudation of the dead matter in their systems. Of all the measures for preventing or reducing over-capitalization, however, I have most faith in the plan of taxing corporations on valuations not less than the value of their *assets*, nor less than the *par* values of their securities, nor less than the *market* values of their securities. Take the three values in each case and tax the company on the one that is highest. With honest execution such a law would be very effective especially if a *strong progressive increase* of taxation were awarded *upon the excess* of par or market values above real values.

In Massachusetts, since 1871, no street railway company can issue stock till the par value is paid in in cash. Since 1893 stockholders must pay *market value* for new stock. In 1894 all stock or script dividends by telegraph, telephone, gas, electric light, railroad, street railway, aqueduct and water companies are forbidden. In 1897 the increase of capitalization upon consolidation of street railways was forbidden. The issue of bonds was restricted in 1889. In 1896 the provision that no increase of stock could be made in excess of the structural value of the plant and the cash assets was repealed and the matter was left with the commissioners. This was done for the benefit of the West End Company, as one of the commissioners informed me. This is a step backward, but the Mass. laws have shown what can be accomplished by regulation of capitalization, for the street railway capitalization in this State has fallen from \$52,963 per mile in Sept., 1894, to \$14,683 in Sept., 1897. The average capitalization in Ohio, Indiana, Illinois, Michigan, Wisconsin, Minnesota, Iowa, Missouri, and Kentucky, was \$91,500 per mile, or more than twice the Massachusetts figure, altho the number of cars per mile averaged 3.78, which was exactly the same as in Massachusetts.

Massachusetts franchises are liable to revocation at the pleasure of the Legislature, and formerly the street locations of tramways could be revoked by the Aldermen. But in 1897 the right of the city government to revoke street railway locations in the streets was made subject to the consent of the Board of Railway Commissioners, a great gain for the companies.

The regulation of rates is most important as a means of squeezing the water and fiction out of corporate capital. By such regulation net earnings may be reduced to a level which will bring the total eminent domain valuation somewhere within reasonable limits. Gas, water, street railway, telephone and other monopoly rates may be regulated by the Legislature or by the city under Legislative authorization, and probably under the implied authority of the municipal police power.<sup>8</sup> The only limitation is that the regulation shall be *reasonable*. Property cannot be taken for public use without compensation indirectly thru the regulation of rates any more than it can be so taken directly. What amounts to compensation is a difficult question. It has been held that a rate is constitutional if it is sufficient to cover cost of service, interest on bonds, and some dividend which latter may be only one per cent. or even less.\* Where the proposed rates will give *some* compensation, however small, to the owners of the property, the courts have no power to interfere.<sup>9</sup> It is not quite settled, however, that courts would sustain a profit of 1 per cent. or less.<sup>10</sup>

It is clear that a corporation cannot claim rates sufficient to allow dividends on excessive capitalization. The U. S. Supreme Court says in the Nebraska case:

*"If a railroad corporation has bonded its property for an amount that exceeds its fair value, or if its capitalization is largely fictitious, it may not impose upon the public the burden of such increased rates as may be required for the purpose of realizing profits upon such excessive valuation or fictitious capitalization."*

But if the evidence before the court indicates that the proposed rates will not cover operating expenses, as was the case in the Nebraska decision, of course the rates will not be sustained.<sup>11</sup>

Legislative reduction of telephone rates from \$11.16 a month to \$2.50 has been sustained.<sup>12</sup>

The speed, accommodations, and rates of street railways may be regulated under the police power of a State or municipality.<sup>13</sup> A State may order a street railway to remove snow and ice, to number and license cars, to limit their speed, to operate more cars, etc.<sup>14</sup>

<sup>8</sup> "When a business becomes a practical monopoly, to which the citizen is compelled to resort, and by means of which tribute can be exacted from the community, it is subject to regulation by the legislative power." (Bradley, J., interpreting the Munn case in *Sinking Fund case*, 99 U. S., 700, 747.)

\* In 35 Fed. Rep. 879, the court said: "Compensation implies three things—payment of cost of service, interest on bonds, and then some dividends," which Justice Brewer declares may be only 1 per cent. or less. Even a lower rate than this rule would allow may be entirely constitutional and perfectly just in some cases as was pointed out by the Interstate Commerce Commission in its fourth annual report. See also Larrabee's Rd. Question, p. 365.

<sup>9</sup> *Chicago & N. W. Rd. Co. vs. Dey*, 35 Fed. Rep., 879. If any compensation is left above proper and lawful expenses, the reasonableness of the margin is a legislative, not a judicial question, 143 U. S. 546.

<sup>10</sup> See *Milwaukee Elec. Ry. & L. Co. vs. Milwaukee*, 87 Fed. Rep. 577.

<sup>11</sup> *Smyth vs. Ames*, 169 U. S., 466, Mar., 1898. 171 U. S. 361, May, 1898, commonly known as the Nebraska Case.

<sup>12</sup> *Hockett vs. State*, 105 Ind. 250; 106 Ind. 1; 118 Ind. 194.

<sup>13</sup> *Buffalo, etc., Ry. vs. Ry.*, 111 N. Y. 132 (1888); 117 Mass., 544; 58 Pa., 119; 95 Ill., 313; 36 Neb., 307; 22 N. J. L. (2 Zab.) 623; 19 Minn., 418.

<sup>14</sup> *Frankford, etc., Ry. Co. vs. Phila.*, 58 Pa., 119. *Booth on St. Ry. Law*, p. 336.

A statute fixing transfers at 8 cents is good,<sup>15</sup> so is a law limiting ferry tolls collected of street railway passengers,<sup>16</sup> also an Act reducing fares on the Buffalo street railways to 5 cents.<sup>17</sup> The Legislature has a right to fix rates on street car lines, tho no such power was expressly reserved, and tho the charter says "the directors shall fix rates."<sup>18</sup>

Upon the principle that control of street railways comes under the police power of a city, Lincoln, Nebraska, fixed street car rates at 6 rides for 25 cents, and the ordinance was held good.<sup>19</sup>

Indiana passed a law reducing street railway fares in cities having a population of 100,000 or more according to the U. S. census of 1890, and the law was sustained in the State Supreme Court but held void in the Federal Circuit Court because it was a *special act* in clear violation of the Constitution of Indiana.

Reformers should be careful in drawing their bills. If this law had said "cities of 100,000 or more," it would probably have been sustained; but as it said "cities of 100,000 or more *according to the census of 1890*," it was a special act, there was only one city to which it applied or ever could apply and the author of the bill might as well have written "Indianapolis" instead of the circumlocution he used.<sup>20</sup>

A State may authorize municipalities to fix the charges of a private water company.<sup>21</sup> Chief Justice Waite said: "Statutes have been passed in many States requiring water companies, gas companies, and other companies of like character, to supply their customers at prices to be fixed by the municipal authorities.

"That it is within the power of the government to regulate the prices at which water shall be sold by one who enjoys a virtual monopoly of the sale, we do not doubt."

Investigation of monopolies, regulation of their bookkeeping, and public supervision of their accounts are very necessary to form the basis for laws regulating rates; and to aid the enforcement of such regulations and of proper limitations upon stock and bonded capitalization. There is no doubt that very complete regulation and publicity of corporate accounts would be sustained, for the courts hold that monopolies of transportation, water supply, etc., are "performing public functions," and are subject to full control.

In general it is not desirable to build competing works because

<sup>15</sup> Wakefield vs. South Boston R. R. Co., 117 Mass., 544, chap. 381, §36, Laws of 1871.

<sup>16</sup> Parker vs. R. R. Co., 109 Mass., 506.

<sup>17</sup> Buffalo E. S. R. R. Co. vs. B. S. Rd. Co., 111 N. Y., 132, chap. 600, N. Y. Laws, 1875.

<sup>18</sup> Ill. Cent. Rd. Co. vs. The People, 95 Ill. 313; the legislature has a general power to "define, prohibit, and punish extortion," p. 315.

<sup>19</sup> Maxwell, C. J., in Sternberg vs. State, 36 Neb., 307, 317 (1893).

<sup>20</sup> For a much fuller discussion of this case and of the whole subject of regulation of rates, see my chap. on The Legal Aspects of Monopoly in *Municipal Monopolies*.

<sup>21</sup> Spring Valley Water-Works vs. Schottler, 110 U. S., 347, 354.



of the absolute economic waste entailed and because it is a resort to a method beneath the dignity and conscience of a public body.

When a city wishing to establish public works is already indebted up to the limit allowed by law or near it, or in any case where it wishes to secure the works with little or no resort to loans, the choice lies between the installment, franchise, stock purchase and rental methods.

A city may rent the tracks of a street railway company, operate the cars and pay for the road out of earnings. Or it may have its agents openly or secretly buy a controlling interest in the stock, and then operate the system and make it pay for itself out of earnings. Or it may contract with private parties to build or buy the plant and allow the city to pay for it in installments from the earnings, if the city assumes the operation, or from the yearly taxes if the private parties operate the plant till the payments are complete. Or it may be provided in the franchise agreement that in consideration of the franchise term the tracks or lighting plant, etc., shall become the property of the city from the start or at the end of the term without further payment. Or it may be provided that after a certain date the city may purchase at the actual value of the physical plant and then the city may lay by each year a certain sum from the yearly taxes to build up a fund for such purchase. Or the company may be required to pay into the public treasury each year a percentage of receipts sufficient or more than sufficient to provide the means for said purchase at the end of the term.

The *French Government* granted telephone franchises to private companies on condition that they should pay 10 per cent. of their gross receipts to the State, and that the State should have the right to fix rates, and to buy the system at the end of the five-year franchise for the value of the *materials* employed in it. When the government took the lines the 10 per cent. receipts had more than covered the purchase price under the agreement.

*Berlin's* agreement with the Berlin Electric Works Company secures the city 10 per cent. of the gross receipts plus 25 per cent. of all profits above 6 per cent. on the actual capital invested, and very low rates for public lighting. The agreement also fixes the rates to be charged private parties, and no departures from these rates can be made without assent of the city authorities. The city authorities retain the fullest rights of inspection, both technical and financial, and all the company's affairs are open to the knowledge of responsible public officials. A deposit of 250,000 marks is required from the company to hold it down to the rules as to laying wires, etc. Finally the city reserves the right to buy the plant after 7 years at a fair valuation carefully provided for in the contract. Dr. Albert Shaw, from whose "Municipal Government in Europe" this Berlin agreement is condensed, says on p. 350, "In studying these German contracts one is always impressed with a



sense of the first-class legal, financial and technical ability that the city is able to command; while American contracts always impress one with the unlimited astuteness and ability of the gentlemen representing the private corporations."

Berlin has recently extended the franchises of its street railway companies till 1920 under the following conditions:

1. The companies are to unite and convert the entire system to electric traction.

2. Extensions to be made as the city orders; the city to pay a part of the cost of construction after 1901— $\frac{1}{3}$  at first,  $\frac{1}{2}$  after 1907, and the whole after January 1, 1914.

3. The overhead trolley to be used except where the city may require storage batteries or other motor system, on just arrangements as to increased cost.

4. City to have 8 per cent of the gross receipts within city limits and  $\frac{1}{2}$  the excess of net income over 12 per cent. on present capital and 6 per cent. on any additional capital.

5. Company to pave streets.

6. No "running boards" for conductors on the outside of cars to be used, and motormen not to work over 10 hours a day, except on special occasions.

7. After 3 years fares shall not exceed  $2\frac{1}{2}$  cents within the city, nor to the end of every line in 20 enumerated suburbs. Commutation and scholars' tickets at reduced rates, and also workingmen's fares at certain hours.

8. At the end of the term all property of the company located in the streets or on city land, and all patents come to the city without payment.

9. Disputes to be settled by arbitration.

10. The company to establish a pension fund for all employees.

*Leipsic* has an admirable lighting contract, one part of which provides that at the end of the franchise term the works shall become the property of the city without cost. In *Hamburg* the street railway tracks revert to the city at the end of the charter period. In 1894 an outside company offered to build a plant of 1000 electric lights in *Minneapolis* and sell it to the city for \$1 at the end of a 5-year franchise, if meanwhile it might receive \$150 per arc per year, which was the price the old company was getting. The city engineer investigated the matter and found that the new company could afford to make the offer. But the contract with the old company was renewed for 5 years at the old rate of \$150 per light. That is, the city gave away a thousand arc plant. Do you ask why? Well, the old company had "influence."

In 1891 the franchise of the *Toronto* street railway expired. The city paid the appraised value of the physical plant, \$24,640 a mile, and operated the road for six months at a profit of \$25,000 a month. Then the city council of 24 members decided by a majority of one to sell the system, which was done on the following conditions:

First: The company to pay the city \$800 a year for each mile of single track, plus

8 per cent. on gross receipts up to one million dollars,	
10 per cent. " " " between 1 and 1½ millions,	
12 per cent. " " " 1½ and 2 millions,	
15 per cent. " " " 2 and 3 millions,	
20 per cent. " " " above 3 millions.	

This means about 15 per cent. of the total income in Toronto with 91 miles of track and a little over a million receipts (\$1,077,600). In Boston it would mean about 20 per cent of the gross receipts of the railways, or 1 & 1/3 millions a year, and in Philadelphia, with 450 miles of track and almost 11 millions of receipts, a Toronto contract would mean nearly 21 per cent. of the receipts, or 2¼ millions a year in the city treasury.

Second: Five cents for a single cash fare; 25 tickets for \$1, or 6 for a quarter; tickets good from 5.30 A. M. till 8 A. M., and from 5 to 6.30 P. M. (the hours in which the great body of working people go to and from work), 8 for a quarter, or 3 cents a ride; school children's tickets, good from 8 A. M. till 5 P. M., 10 for a quarter, or 2½ cents a ride; half fare for children under 9. Fares on night cars double the single day rate; free transfers thruout.

Third: City engineer to have control in respect to number of cars run, speed, improvements to be introduced, removal of snow, repairs of streets, etc. The system to be transformed from horse to electric, and extensions to be made from time to time as directed by the city authorities.

Fourth: The company's system of bookkeeping to be subject to approval of city treasurer and city auditors, and all the company's books and accounts to be subject to monthly audit by city auditors.

Fifth: Employees not to be required to work over 10 hours a day, nor more than 6 days a week, nor for less than 15 cents an hour.

Sixth: At the end of 20 years (or 30, since the franchise may be "renewed for a term of 10 years, and no longer") the city may take the plant at its actual physical value as determined by arbitration.

The Review of Reviews for August, 1894, says that "This contract is the most complete and satisfactory municipal franchise that has ever been granted in America. It ought to form a model for the cities of the United States." Yet under this contract, fine as it is, the city received only \$10,000 a month from the railroads in 1892 as against \$25,000 a month under public ownership in 1891, which would cover depreciation and interest and still leave more than the net income under the agreement. In 1897, with a large increase in mileage and traffic, the city's share amounted to about \$14,000 a month. The company realized \$20,000 net per month in 1894, \$30,000 in 1895, \$31,000 in 1897. In the latter year it paid interest on \$33,000 of bonds per mile, or enuf in all probability to duplicate the road (4.8 cars to a mile), and had a profit of 4.5 per cent. on \$66,000 of stock per mile, all water. The company has invested about 3 millions, including the purchase price and the cost of changing from horse to electric traction. It has issued 3 millions of bonds and 6 millions of stock, and the stock was selling at 80 cents on the dollar in 1896, probably more now—9 millions of capitalization

and nearly 8 millions of market value on a plant worth less than 3 millions, and the people pay interest and dividends on the excess of value, in spite of the famous contract which is really very admirable as a contract, but still vastly inferior to municipal ownership, which would give the people still lower rates, banish the water and put *all* the profits in the public treasury. The gross receipts run nearly 16 cents per car mile, and the operating expenses are under 8 cents. The average receipts per passenger, including the night rates, are  $4\frac{1}{4}$  cents, and the cost per passenger, exclusive of franchise tax is about 2 cents. With municipal ownership, free of debt, a uniform 2 cent fare could be made, and the increased traffic would certainly take care of depreciation and a moderate payment to the public good.

It is said that the councils did not intend, when they took the roads, to continue public operation any longer than necessary to make the sort of contract they desired. It might be thought that the success of public operation would have changed this intention. In trying to understand the excessive capitalization and also why the city council voted as it did after the great success of municipal operation in 1891, one may get some help from the statement of one of the counsel of the road to Dr. Charles B. Spahr, of *The Outlook*, that the capitalization is not excessive because two of the original four who received the franchise had sold out after doubling their money, and the owners of the franchise were entitled to compensation for the vast amount of credit they had to command in order to take the franchise and also their labor in agitating against municipal ownership!

In 1894 Springfield, Illinois, was paying \$138 per arc of 2000 candle power on the moon schedule, i. e., burning dark nights only. The city knew the price was exorbitant, but the company (which controlled the gas plant as well as the electric) presented a signed statement that the cost of the service was \$117 per light, and refused to come below \$120 anyway. The city wisht to build, but had reacht the limit of its borrowing power. So it made a contract with 60 citizens by which the latter were to form a company and build and operate a plant, the city paying \$113 per arc, \$53 of each \$113 to go toward paying for the works, and all profits arising from the administration of the plant to be applied on the capital account. When the works are paid for by these means they become the property of the city. The 60 citizens put in \$1000 each, built the plant, leased it to two electricians, who agreed to supply light at \$60 per arc (\$43 operating cost and 7 per cent. interest on the capital, 7 per cent. being what the banks charged for the money loaned). The public buildings are lighted with incandescents (800) free of charge (a gift of at least \$1800 to the city), and 25 per cent. of the gross receipts for commercial lighting are credited to the city. It is estimated that in five years from the start the plant will be paid for, and then it will belong to the city free of debt, and the people will get electric light at cost. By this plan the city has incurred no debt, has not increased taxation, but, on the contrary, has di-

minisht it, and the public spirit and co-operative feeling of the citizens has been brought into play. The lessees get operating expenses and interest from the city arcs and 75 per cent. of the commercial receipts, which yields them a good return, altho commercial rates have been reduced 40 per cent below what they were in June, '95, when the company started. In June, '98, the company had credited the city with over \$60,000 profits, leaving about \$51,000 debt on the whole plant for municipal and commercial lighting. In two or three years the plant will come to the city clear, street lights will be operated at a cost of about \$40, probably, and the commercial lighting, even at the present low rates, will yield enuf to cover all the cost of the public lighting.

Contractors have offered Des Moines to build a good plant and operate 500 arcs all night and every night for \$62.50 each, the city to levy a 2 mill tax for two years, which, with the saving to the yearly electric light fund, will pay the cost of the plant (\$105,000 for 600 arcs and 1500 incandescents) in about 2 years.

Indiana has a law authorizing the construction of water works by companies, with a contract provision that the city by annual payments to the company should become the owner of the works at a time stated.

In Great Britain, under the Tramways Act of 1870, municipalities may build their own tramways if they so desire, or if the lines are built by a private company, then at the end of 21 years and of each subsequent franchise period of 7 years, the town or city has two years in which it may buy the railways at the *actual value* of the *physical plant*. About one-fourth of the tramways (with 40 per cent. of the mileage) in England and Scotland are owned by the municipalities, and additions to the list are being made as fast as the franchise periods come to an end.

Most of the cities owning railways have leased them on terms which will cover in 21 years the principal and interest of the debt incurred for building or purchase, and in many cases the city receives a considerable annual payment beyond what is needful for interest and sinking fund.

In Manchester the lines were built in 1877, and the rentals to 1895 amounted to \$1,275,000, while the total cost of the lines was but \$725,000. In 1900 the city will receive a valuable railway property in good condition, and free of debt, and can use its revenues to accomplish a considerable reduction in taxation, or render a service to the mass of the people by putting fares down to the level of cost.

Before 1896 it was not easy to obtain permission for municipal operation of street railways. A few permissions had been given but the House of Commons had a standing order forbidding the introduction of any bill for such a purpose. In 1896, however, the order was rescinded and the door thrown open. An act allowing Sheffield to operate street railways was unanimously passed,<sup>22</sup> and

<sup>22</sup> Sheffield took the railways, increased wages 10 per cent., provided uni-

other cities soon obtained similar powers. There are now 43 tramways owned by municipalities and 117 by private companies, the mileage being 620 public and 934 private. Of the public owned tramways, 16 with 318 miles of track are operated as well as owned by municipalities. One of these lines with 48 miles of track is in London. (See Appendix II.)

The English electrical journals report that the London County Council has determined to acquire the street railways as fast as the franchises expire. A strong syndicate has offered to take all the tramways, rebuild them for electric traction with the underground conduit, *put the ownership of the tracks and conduit in the county council at once without consideration*, and pay a yearly rental to the city equal to the entire net earnings of the existing roads for the preceding year, on condition: (1) That a 28-year's lease shall be given the syndicate. (2) That the equipment and power plant shall belong to the syndicate, and shall be bought by the Council at the end of the lease at a valuation to be determined by arbitration. (3) That no regulations shall be imposed upon the syndicate as to service or employees. The Council objected to the latter condition and were doubtful of the desirability of the conduit system, so that the offer was not accepted, but it shows very clearly the willingness of capital to build even the most expensive systems, pay large rents for franchises and at the end of the term turn over the plant to the city at a cost that is practically nothing, since the syndicate was to receive no pay for the tracks, and only the actual value for equipment and power plant which would be much more than covered by the franchise rentals.

In Australia it is said the common method is for the city to build the tramways with money borrowed from the State, and then lease the roads for 20 or 30 years under conditions requiring the lessees to take care of the debt and return the roads to the city free of incumbrance at the expiration of the term.

In Milan, a city of 44,000 population, the horse roads with a 2 cent fare paid the city 10 per cent. of their gross receipts. The new Edison Electric Company has bought the horse roads and obtained a new franchise for 20 years from Jan. 1, 1897. The company is to *hand over all the tramways to the city*, which is to convert them for electric traction, and then the Edison Co. is to equip and work them on the overhead system. Of the total receipts the company is to get 7.72 cents per car mile for operation. From the remainder a fixed sum per mile is to go to the city to cover depreciation and maintenance of the permanent way. *Of the balance 60 per cent. goes to the city and 40 per cent. to the company.* The city regulates the service and the number of cars to be run, and has fixed the fares at 2 cents all the way out from the centre, with one cent fares night and morning for working people.

forms for the men, reduced fares 10 per cent., and made a surplus in 1896-7 of \$40,000 above interest and sinking fund, or 6 per cent. on the capital of \$650,000.



In Budapest, the capital of Hungary, a city of about 500,000 inhabitants, the street railways were built by private capital, and at the expiration of existing charters, the roads and their equipment are to be the property of the city without payment to the private owners. The fares are fixed by law and average  $2\frac{1}{2}$  cents per passenger. Heavy taxes are paid to the city, a good reserve fund and a fund for the care of employees are provided, and after all the electric roads pay 8 per cent. dividends on the investment. The underground conduit is used in the centre of the city, and the overhead system in the outer districts. All books and accounts of the companies are open to public inspection.

In a number of our States laws have been passed enabling cities and towns to own and operate water, gas and electric plants, street railways and telephones being sometimes added, and municipal power to grant street franchises is given (see Chapter III) so that cities in such States can make contracts similar to those adopted in Europe.

Before leaving this important subject of method I should like to suggest:

1. The advantage of putting public works under the control of non-partisan boards or boards which must be composed of members from each of the leading parties, as in the Wheeling Gas Board.

2. The importance of a provision such as that which protects the Richmond works, by prohibiting the sale or lease of public plants except upon a referendum vote of the people to that effect. This will nail down the coffin lid of corporate monopoly. When works become public under such a provision they are protected from being purposely run down and injured in order to give apparent reason for a retransfer to private operation, as in the case of the Philadelphia gas works. The referendum clause discourages the corporation schemers, and they are far more likely to let the plant alone.

3. More important than all the rest, perhaps, is this final recommendation: that every city council be supplied with a small number of good books on economic and political subjects. The list should include the writings of Dr. Shaw, Henry D. Lloyd, Professors Ely, Bemis, Commons, Jenks, and Gov. Pingree. If the discerning reader feels inclined to put *this* book also in the list, we shall not object. The publications of the National Municipal League and the League of

American Municipalities, and the reports of famous investigations into municipal and corporate affairs such as the Bay State Gas, West End Street Railway, Broadway Franchise, Cleveland Gas, New York Gas, Philadelphia Gas, Tweed Ring, Chicago Street Railway, St. Louis Street Railway, New York Special Street Railway Committee's Report, Massachusetts ditto, Glasgow ditto, etc., should certainly be included.

It would greatly add to the value of such a little library if a competent expert would go thru the books and *mark* the most important passages with black and blue and red, make brief marginal notes and cross references, and paste on the inside of the front cover a brief index bringing together the best points of the book under the heads most likely to be of use to members of council.<sup>23</sup>

Some of the principal politico-economic periodicals might be added with advantage, and arrangements should certainly be made to obtain the yearly reports of leading public works such as the Wheeling, Detroit and South Norwalk lighting plants, the Glasgow Street Railways, etc., and the complete reports of a few progressive cities and towns such as Boston, Brookline, Springfield, Glasgow, Birmingham, etc.

The city council of Ithaca, N. Y., set the example in February, 1898, by appropriating \$25 for books on municipal questions for the use of councils. The Hon. Josiah Quincy, the progressive Mayor of Boston, has an admirable little department of municipal statistics and general information, with an excellent man at the head of it, but it is not located so as to make it likely that councilmen will become saturated with facts thru its instrumentality.

The plan suggested for councils would be valuable also in high schools, Christian associations, labor unions, and young men's societies of every sort. It is simply the plan followed in the best colleges, of making little special libraries by grouping together the principal books relating to a given subject, plus

<sup>23</sup> I am authorized by the Trustees to state that any City Council sending \$25 or \$50 or \$100 to the "College of Social Science" will be supplied with a number of books proportionate to the remittance, marked and indexed as suggested, a reasonable charge for marking being added to the ordinary price of the books. With a \$50 or \$100 set there will be sent a little index book consolidating the chief references in all the books under the leading municipal topics. Dr. C. F. Taylor, 1520 Chestnut Street, Philadelphia, is treasurer of the College.

my own method of marking and marginal notes, cross references and analytic indexing, that enables one to collate with ease all the material he has upon any specific point.

### EXPERIENCE.

Under this head many volumes might be written describing the successes of public ownership, the mistakes that have been made here and there and the precautions that should be taken to prevent similar errors in the future. We have already spoken of the Brooklyn Bridge Railway with its efficient service, wonderful freedom from accident, and admirable treatment of employes. We have stated the facts about some of the public telephones, the Springfield electric plant, the Logansport and Jamestown works, etc., and hinted at the great successes in Richmond, Wheeling, South Norwalk, Allegheny, Detroit, and other cities. In this section I will confine myself to three additional illustrations selected from widely different fields; the water works of New York State, the municipal undertakings of Glasgow, and the experience of England with the telegraph.

The facts about the water works of New York State I take from a thesis prepared in 1896 by Almon E. Smith, one of Professor Commons' students in Syracuse University. Table I divides the cities and towns of New York into ten groups according to population from below 1,000 to 2,000,000. The number of cities in each group having public water works and the number having private works appears in columns 2 and 3.<sup>1</sup>

It will be seen from columns 4 to 14, that the miles of mains, number of taps and hydrants, and consumption of water per family are all greater in places having public works than in places served by private companies. This indicates greater efficiency and more general use and satisfaction under public ownership. In the vast majority of cases there is not only a contrast, but a very emphatic

<sup>1</sup> Data on all points were not obtained from all the cities but the facts were secured for a sufficient number of municipalities to make valuable comparisons except in the eighth and tenth groups. In the first group 3 and 10, 4 and 12, 3 and 11, 4 and 11, 3 and 6, 3 and 6, 3 and 6 represent the number of public and private plants reporting. In the second group the numbers are 23 and 37, 30 and 46, 24 and 39, 30 and 44, 9 and 13, 21 and 26, 20 and 26, 20 and 25. In the third group the numbers are 9 and 19, 11 and 23, 9 and 19, 11 and 21, 5 and 7, 8 and 8, 9 and 9, 8 and 10. In the fourth group, 9 and 19, 12 and 18, 10 and 18, 11 and 18, 6 and 12, 9 and 10, 9 and 7, 10 and 10. In the fifth group, 12 and 10, 13 and 10, 13 and 10, 13 and 10, 5 and 3, 13 and 3, 13 and 3, 12 and 3, etc. That is, in group 5 the number of cities having public works reporting percentage of taps per family is 12, and number of private works so reporting is 10. The number of plants in the group reporting miles of mains is 13 and private works 10, etc.

TABLE 1.—New York Water Works.

Population in thousands.	No. of Cities.	Taps per family per cent.		Average Miles of Mains.		Average Number (in hundreds) of Hydants.				Average Daily consumption in gallons per family		AVERAGE CHARGE.									
		Pub. (2)	Priv. (3)	Pub. (4)	Priv. (5)	Pub. (6)	Priv. (7)	Pub. (8)	Priv. (9)	Pub. (10)	Priv. (11)	Pub. (12)	Priv. (13)	Pub. (14)	Priv. (15)	Per Mile of Mains.	Per Tap.	Per Family			
(1)																					
Below 1	5	15	39	50	39	4.3	2.9	.79	.65	.24	.14	.....	.....	.....	.....	\$328	\$406	\$14	\$19	\$6 3/4	\$8 1/2
1 to 3	31	47	42	42	31	6.5	5.5	1.65	1.17	.40	.30	315	315	315	315	379	480	12	23	5	6 1/2
3 to 5	11	23	46	46	34	8.9	9.5	4.04	2.97	.63	.62	437	369	488	743	13	31	5	5	8 1/2	8 1/2
5 to 10	12	18	57	57	35	16	14	9.74	4.64	1.1	1.0	548	310	982	1052	12	28	7.8	10.8	10.8	10.8
10 to 25	13	10	48	48	40	30	28	17.0	12.3	2.0	1.6	672	553	1192	1517	16	31	6.6	11.8	11.8	11.8
25 to 50	3	3	50	50	30	31	44	27.1	25.1	3.5	3.3	340	332	1837	1198	16	23	5.9	6.8	6.8	6.8
50 to 100	2	1	57	57	18	76	42	106	34.4	6.6	3.8	590	.....	2,398	.....	19	.....	11	.....	.....	.....
100 to 500	2	.....	85	.....	.....	263	.....	326	.....	24	.....	623	.....	1483	.....	12	.....	10.5	.....	.....	.....
500 to 1000	1	1	83	83	3.5	431	50	895	37.3	4.5	4.2	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
1000 to 2000	1	.....	35	.....	.....	668	.....	1089	.....	86	.....	387	.....	4383	.....	27	.....	9.4	.....	.....	.....

contrast in favor of the public works. The advantage runs 1/3, 1/3, 1/2, 1/5, 2/3, 200 per cent., 25 fold, etc., in favor of the public plant in the different groups. In only 3 of the 55 contrasts in the table is the average of the private works the best and in one of these, the charge per mile of mains in the sixth group, the contrast is due simply to the greater density of business in the public plants as shown by dividing the number of taps by the miles of mains, a rebuttal which does not apply to the other contrasts of columns 15 and 16 since the density of public business is greater in those

cases also wherefore the lower public charges per mile of mains are all the more potent proof instead of being offset.

Mr. Smith says:

"In judging of the efficiency of the service, we have only to compare columns (4) and (5), (6) and (7), (8) and (9), and (10) and (11) \* \* \* We find that thruout the state there is a greater number of *taps* per family where the works are public, than there is otherwise. In regard to these two columns, it is evident that they deserve careful study. They contain one of the most vital facts, and illustrate one of the most important truths connected with the entire subject. It is from this comparison that we see, perchance, more definitely than from any other source, to what extent the system is found practicable for general use. It is doubtless the most concise manner available for expressing the degree of universality in the use, and satisfaction with the price of water furnished by private and public works.

"In the places of less than a thousand population we find that 11.14 per cent. more of the residents use the water from public works than from private plants. In cities owning their own works, an average of 49.74 per cent. of the families are supplied, while only 38.6 per cent. of the families are supplied in places where water is the basis of a private industry. In villages having between 1000 and 3000 population the difference is 10.75 per cent. of the entire population, the proportion supplied being public 41.64 per cent. and private 30.89 per cent. In those villages that have a population of from 3000 to 5000, 45.93 per cent. in those having public works and 33.63 per cent. in those cities depending upon private companies, are supplied with water. This shows a difference of 12.30 per cent. of the whole population. Cities of from 5,000 to 10,000 inhabitants show a much greater difference. There we find 56.62 per cent. of the families use the water when it is supplied by the city, and 35.37 per cent. where the supply is private. This leaves a margin of 21.25 per cent. on the side of municipal ownership. In the cities whose population is between 10,000 and 25,000 the proportion of consumers to the entire number of families is 48.16 per cent. public and 39.74 per cent. private. In those whose population is over 25,000 and less than 50,000 the percentage of consumers is 50.42 per cent. public and 30.18 per cent. private. \* \* \* It is certain that if we adopt the proportion of taps to families as our standard of efficiency of service, and moderation of rates, we shall be obliged to concede the preference to be with the public works.

"We consider next, columns (6) and (7). This seems of vast importance as it marks a tendency to supply all suburban localities on the one hand, and on the other, simply to furnish the most densely populated sections. \* \* \*

"There is a longer line of distributing main for an equal population where it is owned by the city. The plants have more suburban lines when under public control. This encourages the people to abandon the overcrowded centers in our cities and to build homes



in the outlying districts. \* \* \* A very significant fact may be seen from the possibilities for fire protection. We may notice that in every class the number of hydrants is greater when the works are under public control. The difference being from 2.5 per cent. in group 3, to 72.2 per cent. in group 7." \* \* \* The consumption is also everywhere found larger per family and per capita when it is supplied by the city, the greatest difference appearing in group 4, where the average in public works is 547.7 gallons, in private 309.96 gallons per family, or a difference of 237.74 gallons per family."

"From columns 15 to 20 it appears that the public service is decidedly cheaper than the private service in every group, the charge per family is considerably lower in every case, and also the charge per tap, which in two groups is less than half for public plants what it is for private works, and averaging all the groups but the first the private charge is about 100 per cent. above the public charge."

The savings to the cities and towns thru public ownership are thus summed up by the essayist, after elaborate calculations in which interest, taxes, hydrant rentals, etc., are fully allowed for.

#### Saving by Municipal Ownership of Water Supply.

GROUPS ON CITIES.	Annual Balances Saved by Public Ownership (considering both family service and public consumption, fire protection, &c.)		
	Per Family	Per Tap.	Total Amount
Cities of 1st group.....	\$5.47	\$14.17	\$4,387
Cities of 2d group.....	4.42	14.31	53,976
Cities of 3d group.....	8.10	14.10	75,235
Cities of 4th group.....	5.05	14.26	110,098
Cities of 5th group.....	6.23	15.68	286,479

In the 6th group only one city of each sort is reported, the savings shown by public ownership being \$1.68 per family, \$5.57 per tap, and \$34,237 total. For the private works in the remaining classes the essayist had no price data.

For a second illustration of the results of experience in public ownership we will take a statement concerning Glasgow which I drew up recently from letters and reports direct from Glasgow together with the writings of Dr. Albert Shaw and Sir James Bell, and which has been adopted for issue by a referendum vote of the National League for Promoting the Public Ownership of Monopolies. It is called:

#### THE WISDOM OF GLASGOW.

Glasgow is the second city of Great Britain. Its population is

750,000, or 900,000 with suburban towns. In respect to the municipalization of industry it is probably the leading city of the world. It has extended the field of municipal business far beyond the limits usually prescribed. It owns and manages public slaughter houses, a consolidated market system, public swimming baths, laundries, sanitary wash houses, model tenements, municipal lodging houses, a family home, a municipal art gallery, public water works, gas and electric works to supply light, heat and power; the street railway system, a city farm where the sewage is used and fodder raised for municipal horseflesh in the street cleaning department and on the street railways, the harbor and everything pertaining to it—harbor tramways, ferries and steamers, graving docks, weighing scales, cranes, various yards and offices, and the supply of water for ships—all belong to the city and contribute to its revenues. And it would have had a municipal telephone system, if the permission it has more than once requested had been granted.<sup>2</sup>

The results of these extensive experiments in public ownership have been the development of an active local patriotism, the purification of politics, improved conditions of labor, better homes, better health, cheaper and better service, a remarkable increase of business, diffusion of wealth, power and benefit, and a new impulse toward noble ideas—the tendency being to substitute the ideal of public service for the ideal of personal aggrandizement.

In the model lodging houses every lodger has a separate apartment, the use of a large sitting room, a locker for provisions and the use of a long range for cooking his own food. The charge is 7 to 9 cents a day, and at the women's lodging 6 cents. These municipal lodging houses have led to a great improvement in the private lodging houses. Private parties have opened improved establishments on the plan of the public houses, with the same prices, and the same strict rules as to order and cleanliness. Many of the smallest and worst of the private houses have disappeared entirely.

In the public baths the charge for a swim, as long as you like, is 4 cents, 12 tickets for 36 cents; boys and girls under 13, 2 cents and 12 tickets for 18 cents. Special reduced rates for schools, classes and associations of young people. Clubs can get the exclusive use of the pond for one night weekly, between 9 and 10, for \$1.60 (which admits 40 members) and a charge of 2 cents for each person beyond 40. Women's clubs, 96 cents for 24 members and 2 cents for each additional person. Private hot baths, 6 to 12 cents.<sup>3</sup>

<sup>2</sup> In a letter relating to the Glasgow situation and the Natl. Pub. Own. Circular, Col. Thos. Wentworth Higginson calls attention to the fact that while Glasgow has done much in the development of municipal business she has neglected to establish public libraries. Our cities, tho far behind in the public ownership of material utilities, have shown more wisdom in respect to provision for the intellectual man.

<sup>3</sup> Condensed from p. 177 of "Glasgow" by Sir James Bell, Lord Provost of Glasgow 1892-5, and 1895-6. Boston has just opened (Oct., 1898) her first permanent all-the-year-round public bath. The baths are all private. The only charge is for soap and towels 1 cent, and Saturdays from 10 A. M. to 5 P. M. boys and girls are supplied with soap and towels free. Boston is ahead as to charges but there is no swimming pool, which is one of the most important persuasions to cleanliness, changing its pursuit from a labor to a pastime.

Hardly less useful, as Dr. Shaw says, in the cause of cleanliness, are the public laundries. For 4 cents an hour a woman can have "the use of a stall containing an improved steam boiling arrangement and fixed tubs, with hot and cold water faucets. The washing being quickly done, the clothes are deposited for two or three minutes in one of a row of centrifugal machine driers, after which they are hung on one of a series of sliding frames, which retreat into a hot air apartment. If she wishes, the housewife may then use a large roller-mangle, operated, like all the rest of the machinery, by steam power, and she may, at the end of the hour, go home with her basket of clothes washed, dried and ironed. To appreciate the convenience of all this it must be remembered that the woman probably lives with her family in one small room of an upper tenement flat. In each of these establishment the city also separately conducts a general laundry business, drawing its patronage from all classes of society." (Dr. Albert Shaw, *Municipal Government in Great Britain*, pp. 109, 110.)

Most important of all her undertakings, perhaps, are Glasgow's public tramways. The general manager, Mr. John Young, has recently revised and brought down to date a condensed statement of the facts drawn up by me two years ago for the use of the Citizens' Committee of Boston. He also sends the report for '97-8. These documents, with the writings of Dr. Albert Shaw and Sir James Bell, and the Report of the Massachusetts Rapid Transit Commission, supply the data on which the following summary is based

In 1894 the city of Glasgow became the owner and manager of its street car lines. The consequences were:

1. The hours of labor were reduced from 12 and 14 to 10 per day, and from 84 and 98 to 60 per week; wages were raised 2 shillings per week, and two uniforms a year were supplied to each man free—a voluntary improvement of the conditions of labor showing a policy exactly contrary to that of the private companies.

2. Fares were reduced at once about 33 per cent.—the average fare is below 2 cents, and over 35 per cent. of the fares are 1 cent each—a voluntary movement in the direction of cheap transportation, disclosing once more a policy precisely contrary to that of the private companies. For short distances the fare is 1 cent, and night and morning working people can go long routes for a cent. For the year ending May 31, 1898, *the average of all fares was 1.78 cents*; a few years ago, before the city took the lines, the private tramway company collected an average of 3.84 cents per passenger.<sup>4</sup> At the private charges of 1891 the 106,345,000 passengers of '97-98 would have paid the company \$4,083,648 instead of \$1,900,000 they paid the city last year. The same number of rides in Boston would cost about \$5,300,000. We pay the same 5-cent rate that we did ten years ago, while in Glasgow fares fell 50 per cent. in 5 years (1891 to 1896), and are now 55 per cent. below the level of 1891.

<sup>4</sup> Mass. Rapid Transit Report, April, 1892, p. 139.

3. The service was improved. An editorial in the *Progressive Review*, London, November, 1896, says:

"The tramways of Glasgow has been made the finest undertaking of the kind in the country, judged both by their capacity to serve the public and as a purely commercial enterprise."

Glasgow is one of the first cities in Britain to take steps toward replacing horse power by mechanical traction. She sent a committee all over the civilized world to study the best methods, and an electric system is now being introduced while even London contents itself with horses.

4. The traffic was greatly enlarged, doubled in about two years, by low fares, good service and the increase of interest naturally felt by the people in a business of their own.

5. Larger traffic and the economics of public ownership have reduced the operating cost per passenger to 1.32 cents, and the total cost, including interest, taxes and depreciation, is 1.55 cents per passenger. When the private company was collecting 3.84 cents per passenger it declared that only .24 of a cent was profit. Now the city collects 1.78 cents and still there is about a quarter of a cent clear profit, and this is with horse power, which makes the cost per car mile at least 20 per cent. more than with electric traction.<sup>5</sup>

6. The profits of the business go to the public treasury, not into the pockets of a few stockholders. For the year ending May 31, 1898, in spite of the extremely low fares, there was a clear profit of \$189,070 above operating cost and all fixed charges, interest, taxes, depreciation and payments to the sinking fund. In round numbers the profits above operating expenses and ordinary fixed charges were \$240,000 and the profits above operating expenses alone were \$500,000.

We are told that conditions are different in America, and inferences must not be drawn from Glasgow. Let us see. It is true, of course, that it would not do to say that as Glasgow has a 1¾ cent fare, therefore our roads can be operated on a 1¾ cent rate. Street railway wages are higher here than in any city of Europe, so far as I know, and our cities are not so compact as Glasgow. But is it not fair to conclude that public ownership would have an effect in our cities similar *in kind* to the effect it has had in Glasgow? If the change to public ownership in Glasgow brought lower fares and better service than existed under private ownership *in Glasgow*, is it not fair to believe that the change to public ownership here would give us lower fares and better service than we now have?

Public railways in Glasgow have proved far better for employees and the people than private railways. We infer that similar results will follow in America. Details may be different, but the *essential*

<sup>5</sup> The average fare in Great Britain in 1897 was 2.66 cents and the average operating cost 1.97 cents per passenger, facts which are partly due to the public ownership of 40 per cent. of the mileage, partly to density of traffic produced by compact population and low fares. (Glasgow has 12 passengers per car mile, abt the same as Broadway, New York, while Boston has abt 7) and partly to lower wages which in Glasgow make a difference of about half a cent per passenger.

conditions are the same, as shown first, by experience with industries already public here, and second, by a study of the cause of improvement under public ownership in Glasgow.

1. In public business here, as elsewhere, the workers are freer, get more pay and work fewer hours than the employees of the great private monopolies. The public service is good, the charges are very low and the profit, if any, belongs to the people.

2. The change from private to public ownership of a great monopoly means a *change of purpose* from *dividends for a few* to *service for all*. This change of purpose is the source of the improvement under public ownership in respect to cheaper transportation, a better paid and more contented citizenship, a fairer diffusion of wealth and power, etc. This change of purpose will accompany the change to public ownership here as well as in Europe or Australia, and, therefore, public ownership of the railways here will cause a movement in the same general direction as in Glasgow:

Fares will be lower than they are now.

Wages higher. Hours shorter.

Service better. Traffic larger.

And all the profits and benefits of the railway system will go to the public instead of a few individuals. Private enterprise seeks to get as much and give as little as possible, while public enterprise aims to give as much and take as little as possible. A business owned by a few is apt to be run in the interest of the few, while a business owned by all, is apt to be run in the interest of all—or, to put it in one comparative phrase, *a business owned by the people is MORE apt to be run in the interest of the people than a business owned by a Morgan Syndicate.*

#### THE ENGLISH TELEGRAPH.

As a final example under this head let us take the experience of England with her telegraph lines.<sup>a</sup> Up to 1870 the telegraph business in Great Britain was in the hands of private companies, and for many years complaints had been made of excessive charges, poor service and inadequate facilities. The companies pretended to compete, but in reality had an understanding among themselves which prevented the reduction of rates to a just figure. The press of Great Britain complained of the extortions, delays, errors, wastes and inadequacies of the telegraph service, and the Chambers of Commerce of thirty prominent cities memorialized the House of Commons, stating that the petitioners "had reason to complain of the high rates charged by existing companies for the transmission of messages, of frequent and vexatious delays in their delivery, of their inaccurate rendering and of the fact that many important towns, and even whole districts, are unsupplied with the means of telegraphic communication."

An able commissioner appointed by the Postmaster General made a scientific study of the abuses of the existing service, and the con-

<sup>a</sup> See fuller statement in my article on 'The Telegraph Monopoly, Arena, Vol. 17, p. 9.



dition of the service in Belgium, Switzerland and other countries where the telegraph was public property, and reported a plan for public ownership.

The telegraph companies used every effort to prevent and impede the reform. The objections they raised were:

1. It was not the government's business to telegraph.
2. There would be a loss if it did.
3. The telegraph would be better conducted under private enterprise.
4. The government rates would be higher.
5. And the use of the telegraph would decrease.
6. The government service would be non-progressive—no stimulus to invention, etc.
7. The secrecy of messages would be violated.
8. The telegraph would be used as a party machine.
9. The government could not be sued.
10. To establish a public telegraph would be an arbitrary and unjust interference with private interests.

In spite of these terrible prophecies England bought the telegraphs and made them a part of the postal system in 1870, and none of the predictions came true, not even the last, for the companies received more than the fair value for their property. The immediate results of public ownership were:

1. *A reduction in rates* of  $1/3$  to  $1/2$ .
2. *A vast increase of business*—the work done by the telegraph doubling in the first year after the transfer.
3. *A great extension of lines* into the less populous districts, so as to give the whole people the benefit of telegraphic communication.
4. *Large additional facilities* by opening more offices, locating offices more conveniently and making every post-office and post-box a place where a telegram may be deposited to be taken to the nearest telegraph office for transmission.
5. *A considerable economy* by uniting the telegraph service with the mail service under a single control, avoiding useless duplications, using the same offices, the same collecting and delivery agencies, and often the same operatives for both services.
6. *A marked improvement in the service*, throwing complaint out of the steady occupation she had had so long—the aim of the post-office being service, not dividends.
7. *A decided gain to employes* in pay, hours, tenure of office, etc.
8. *Unprecedented advantages to the press* for cheap and rapid transmission of news, at the same time freeing it from the pressure of a power that claimed the right to dictate the views and opinions it should express.
9. *The development of business and strengthening of social ties*, ties of kinship and friendship, through the growth of business and social correspondence.
10. *The removal of a great antagonism* and the cessation of the vexatious and costly conflict it had caused between the companies and the people.

Looking at the subsequent history of the English postal telegraph we find:

1. A further reduction of nearly one-half in the average cost of a message.
2. More than a tenfold increase of business in twenty-five years while population increased but one-fourth—over 1000 per cent. telegraph growth to 25 per cent. population increase.
3. A sixfold extension of lines and fiftyfold increase of facilities.
4. A steady policy of expanding and improving the service, adopting new inventions, putting underground hundreds of miles of wire that formerly ran over houses and streets, etc.
5. A systematic effort to elevate labor, resulting in a progressive amelioration of the condition of employes in respect to wages, hours, tenure, promotion, privileges and perquisites.
6. A good profit to the government (excluding interest on the water-logged capital cost) in spite of low rates, large extensions into thinly populated areas, advancing wages, heavy losses through carrying press despatches below cost, competition of telephone companies in the best-paying part of the traffic, etc.
7. Satisfaction with the telegraph service even on the part of conservatives who objected to the change before it was made.

Comparing the English situation with our own we find:

#### IN ENGLAND.

Low rates.  
Good service.  
Extension of telegraph facilities to the masses.  
Rapid growth, 40 times as rapid as the growth of population, and 4 times as fast as the growth of the letter mail.  
Progressive improvement of labor.  
Harmonious uninterrupted operation.  
Large popular use of the telegraph.  
  
A management aiming solely at serving the people.  
Moderate salaries for leading officials.  
No big fortunes from telegraph manipulation.  
Universal satisfaction with the telegraph situation.  
Public monopoly.

#### IN THE UNITED STATES.

High rates (twice as high).  
Poor service.  
Facilities only for the classes.  
  
Slow growth, less than one-sixth of the growth of the English system.  
  
Progressive maltreatment of labor.  
Big strikes.  
The telegraph an adjunct of speculation.  
A management aiming solely at serving themselves.  
Exorbitant salaries for leading officials.  
The telegraph a millionaire machine.  
  
Universal discontent with the telegraph situation.  
Private monopoly.

The fact that Great Britain began with the private telegraph and gave it twenty-five years and more to show what it could do, that she found it unendurable, and changed at large cost to the public system, which proved a great success, and after a trial of more than twenty-five years is acknowledged by all to be incomparably superior to the old plan—and the further fact that the said country is very like our own in government, language, customs, sentiment, etc., give the history of the English telegraph a peculiar value to us.

The parallel between the English telegraph before 1870 and our own system to-day is very striking—we have in an aggravated form all the evils the English reformers complained of and several addi-

tional ones of our own—boundless dilution of stock, enormous profits, telegraphic millionaires, monopoly of market reports, systematic ill treatment of employes, etc. England had abundant reason for revolt; America has still greater reason.

What could constitute a stronger proof of the benefits of the public ownership of monopolies than this experience of a quarter of a century of private ownership, full of abuses and complaints, followed by a quarter of a century of public ownership of the same monopoly in the same country, resulting in remedying the abuses, stopping the complaints and convincing the stoutest opponents of public ownership that they had been mistaken, and that it was the best plan after all, having abundantly proved its case by actual trial.

### SATISFACTION.

Several investigations into the degree of satisfaction with public electric plants show over 90 per cent. of strongly favorable replies from the officials,<sup>1</sup> and so far as the mass of the people is concerned the cities having public plants are practically unanimous in favor of public ownership. Professor Bemis finds that in every city having municipal gas works public ownership has given general satisfaction. "The people believe they have gained thru public ownership and operation and wish to continue it."<sup>2</sup>

Glasgow is enthusiastic over her municipal street railways and other public enterprises. Our public water works and fire departments are much more satisfactory to the people as a rule than the private variety. Norway and Sweden, Luxemburg, Belgium, and Switzerland are abundantly satisfied of the wisdom of their public telephone systems, while our people are anything but contented with the telephone monopoly which controls most of our cities and charges 2 or 3 prices for its services. As to the telegraph, every country, kingdom, or republic that began with public ownership has had un-

<sup>1</sup> *Arena*, Dec., 1895, p. 101. *Municipal Monopolies* 221-2 (1898). The main objection made by superintendents answering unfavorably is that the charge to private consumers is put too low. The places from which objection comes are nearly all very small towns.

<sup>2</sup> *Municipal Monopolies*, 619 (1898); *Municipal Ownership of Gas* (1891), p. 14. The Professor questioned all the citizens he could meet in the cities visited and on the trains going to and from them and found that "general satisfaction prevails over the results of city ownership. No one expressed any desire to return to private ownership, or any faith in the objections that city ownership is dangerous paternalism, or interference with private rights, or that it leads to corruption of politics thru an enlargement of the number of offices."

broken telegraphic peace and satisfaction, while the countries that have made trial of the private system have found it so imperfect that they have abandoned it for public ownership or made a strong effort to do so, backed by a public sentiment that nothing but the money and influence of a gigantic corporation could have resisted. Even the most strenuous opponents of public railways in Germany now admit that they were wrong and that experience has shown the public system to be superior to the private. No one here would think of turning over the post office to a private corporation.\* Everywhere the satisfaction of the people with the socialization of monopoly is being shown in the most substantial manner possible by the

#### GROWTH OF PUBLIC OWNERSHIP.†

In 1800 there were 16 water works in the United States, all built and owned by private parties except one in Winchester, Virginia; 14 of the 15 private plants have since become public, and from 1800 to 1896 the public works went up from 1 in 16 to 1690 in 3179, or from 6.3% to 53.2% of the total.<sup>1</sup> Of the 50 largest cities in the United States, 21 originally built and now own their water works, 20 have changed from private to public ownership, and only 9 are now dependent on private companies for their supply.<sup>2</sup> According to

\* Imagine the watered stock, the doubled and trebled, squared, cubed and integrated rates, the discriminations between individuals and places, the postal lobbies, the indifferent service except for high-pay-commercial mail, etc., etc.

<sup>1</sup> By 1810 there were 5 public plants in a total of 26. From 1810 to 1825 (the second war period of the country and the years immediately preceding and following it), no public plants were added, and the ratio stood 5 to 32. From 1825 to 1855 the percentage of public works rose from 15.6 to 45.3; but the agitation preceding the civil war and the war itself set back the development of public works to 42 per cent. in 1865. In 1863, the central year of the struggle, not a single water-works plant was built. From 1865 to 1875 the percentage of public works rose rapidly. From 1875 to 1890 franchise getting became a business and private ownership gained several points. Since 1890 the development of public works has been more rapid than ever before, the number rising from 806 in 1890 to 1690 in 1896, while private plants increased from 1072 to 1489 only. (Mr. Baker in *Municipal Monopolies* Chap. I.) The effect of war in stopping municipal development, and the recent enormous increase of public works, are facts of exceeding interest.

<sup>2</sup> The 9 cities are San Francisco, New Orleans, Omaha, Denver, Indianapolis, New Haven, Paterson, Scranton, and Memphis. All the other chief cities have public works. In New Orleans the works were first built by a private company (1833), then sold to the city (1868), then sold back to a company (1878), and now the taxpayers have voted 6,272 to 394 for public waterworks. Indianapolis has had an engineer examine the situation with a view to municipal purchase of the works. Many other cities and towns both in the United States and Canada are proposing to establish municipal works either by purchase or construction.

† See further Appendix II F.

the Water Manual of 1897 there have been 205 changes from private to public ownership in water supply, and only 20 changes from public to private. About  $\frac{1}{3}$  of all the private works built have become public, while only  $\frac{1}{75}$  of the public works have changed. In Massachusetts 29 plants out of 67 have changed from private to public ownership. In other words 43% of the works built by private companies have become public, and no plants have changed the other way. In New York there have been 26 changes from private to public and 1 the other way. In Pennsylvania 14 changes from private to public and 1 the other way. In Canada 19 out of 54 private works built have been changed to public, and the changes the other have been none. In Massachusetts 75% of the water works are now public, in Illinois 78%, Michigan 81%, Iowa 82%, New York 50%, Pennsylvania 24%, California 16%, Minnesota 87%, Nebraska 88%, Canada 75%. From 100 per cent. private to 75, 78, and 81 per cent. public in less than a century is a very decided change.<sup>3</sup> And the movement is accelerating; from 1890 to 1896 the growth of public ownership has been far more rapid than at any previous period, the public works more than doubling in the six years (110% increase to be more exact), while the private works increased only a little over one-third (39%). The net gain in the number of public works was 884, while the net gain of private works was only 417.

In England and Wales 45 out of 64 great towns and boroughs own their water works, with all the large towns in Scotland, and Dublin, Belfast and Cork in Ireland. In 1898 the London County Council has voted to get Parliamentary permission to own and operate its water works. (See Ap. II F.)

<sup>3</sup> In 1800 Massachusetts had water plants in Boston, Plymouth, Salem, Worcester, and Peabody, all private. The first system in the state was built in Boston by a private company in 1652, and the first public works in the state were those built by the city of Boston in 1848. Worcester bought out the private works in 1852. The first plants in Illinois were those of Chicago, 1840, and Ottawa 1860, both private, and the first public works were built by Chicago in 1854. Michigan began with the private plant in Detroit, 1827, bought by the city in 1836. The common council of New York ordered a well sunk and reservoir built in 1774. The work was stopped by the Revolution. In 1799 the Manhattan Co. built works. In 1830 the city built water works for fire department, and in 1842 the Croton works were put in operation by the city. The first complete works in the state were at Geneva, 1787 (private), bought by city 1896. Albany had private works in 1799, changed to public in 1813, back to private in 1831 and finally to public ownership in 1851. The first works in Pennsylvania were at Bethlehem, 1761, private, bought by city in 1871. The Philadelphia works were begun by the city in 1800, the first water being supplied January 2, 1801.



Private gas works were in successful operation at Baltimore in 1821, at Boston in 1822, at New York in 1827, and at Philadelphia in 1835. In 1841 the Philadelphia Councils attempted to take possession of the works but it was found that they had merely succeeded in creating a trust which under the rulings of the courts made the managing board trustees for the bondholders' and the absolute masters of the situation till all the bonds had matured and were paid. So that the first real public gas works were established in Richmond in 1852. Since then 11 other municipalities in this country have secured public works by purchase or construction. In Great Britain—Birmingham, Glasgow, Manchester, Leicester, Nottingham, etc., own their gas works—one-third of all the gas works are public and more than one-third of the gas supplied is from the public works. From 1882 to 1897 the number of public works grew from 148 to 208, or from 29.6 to 32.45 per cent. of the total, and the proportion of gas sold by municipalities rose from 31.7 to 36.9 per cent. *Outside of London one-half the gas used and one-half the consumers are supplied by public works.* In 1898 the number of public works rose to 212 or 32.7 per cent. of the total of 648 works, and 48.8 per cent. of all consumers in the United Kingdom were served by public plants. Taking two nations of Europe, Bronson Keeler found, as long ago as 1889, that 500 municipalities owned their gas works; 168 public works in the United Kingdom and 338 in Germany out of a total of 667 plants (in Saxony every plant public), over 500 cities altogether.

The growth of public electric lighting is shown by the following approximate figures:

	Number of Public Electric Plants.
1882 .....	1
1884 .....	3
1886 .....	11
1888 .....	32
1890 .....	61
1892 .....	192
1895 .....	220
1898 .....	nearly 400

From no per cent. in 1880 to 15 per cent. in 1898; from 1 in 1882 to about 200 in 1892 and nearly 400 in 1898 is good progress.<sup>4</sup> In Great Britain municipal electric plants in 1895 sold 31.9 per cent. and in 1897 they sold 45.2 per cent of the total consumption of electric energy. (See Appendix F.)

<sup>4</sup> There have been 2 sales of public lighting plants because of dissatisfaction, and in both cases the works were a failure under private, as well as under public management; 3 sales distinctly stated not to have been caused by dissatisfaction but to be due to very different causes, two of them to corporate influence in councils, and one to the inability of the city to raise the money for needed reconstruction and extensions. There is also one case where a fire destroyed a very satisfactory public plant, but the city was too heavily involved to rebuild. In five other cases of alleged failure the facts have not been ascertained. That is the extent of the offsets from the forward movement of electric public ownership. (See "Objections" below.)

In Great Britain as we have seen one-fourth of the street railway systems with 40 per cent. of the mileage belong to municipalities, and 16 systems with 318 miles of tracks are *operated* as well as owned by the cities. Huddersfield was allowed to operate its roads from the start (1882) because no private company could be got to undertake the work. Between 1893 and 1895 Plymouth, Blackpool, Leeds, and Glasgow began to operate tramways, the first two for the same reason as in Huddersfield. All these places have made a success of public ownership notwithstanding the adverse conditions in the first three. In 1896 Parliament gave Sheffield the right to operate tramways, and withdrew its prohibition upon such petitions and immediately a score of cities began to make plans for public ownership, London and Liverpool among the number, and 11 cities entered upon the public operation of their tramways from 1896 to 1898. No wonder Professor Bemis speaks of "the rapidly rising tide of municipal operation in Great Britain." Here is the list of cities owning and operating their tramways in Great Britain, with their population. (See further Appendix II F.)

1882.		1896-98.	
Huddersfield .....	100,460	Sheffield .....	347,280
		Aberdeen .....	136,000
		Blackburn .....	129,460
		Bradford .....	228,900
		Dover .....	33,000
Plymouth .....	98,120	Halifax .....	94,775
Blackpool .....	35,000	Hull .....	225,050
Leeds .....	402,450	Liverpool .....	644,130
Glasgow .....	750,000	Nottingham .....	229,775
		South Hampton .....	100,000
		*London .....	4,500,000

\*Partial operation, 24 miles of track, Jan., '99.

America has had but three examples of public ownership and operation of street railways, the Brooklyn Bridge Railway, the interlude in Toronto, and the municipal system of Port Arthur, Ontario.<sup>5</sup> There have been strong movements for public purchase and operation of street railways in Boston, Philadelphia, Chicago, St. Louis and other cities. In Detroit a commission was appointed with Governor Pingree at its head to secure city ownership of all the street railways. A substantial agreement with the companies was reached and the city was about to take a referendum on the matter (which would doubtless have sanctioned the purchase) when the movement was checked by the peculiar decision of the State Supreme Court already discussed. (See Method above.)

This all-important fact, that the stern logic of experience is pushing the people into public ownership, is further illustrated by the history of the telephone. Belgium began with private telephones in 1884, but found it best to transfer them to public operation in 1893. Great Britain has ciphered out the same sum in social economics; the trunk lines became postal property in 1895, and it is generally believed that the government will acquire the entire

<sup>5</sup> Municipal Monopolies, p. 568. The town runs an electric light system in connection with the railway.

business of the exchanges when the National Telephone Company's license expires. Norway also decided in 1895 to take possession of all the trunk lines. Trondhjem has bought up its exchange. Stockholm has a public exchange. Other cities like Rotterdam, Amsterdam, etc., were reported in 1896 to be constructing exchanges, and many more were said to be discussing the subject. Glasgow has repeatedly asked permission to establish a municipal telephone plant. Austria has moved along the same path and since Jan., 1895, private telephone companies have ceased to exist in Vienna. France took possession of the telephone lines in 1889. Switzerland also began with private telephones but has made the whole system public property. Sweden has gone far on the same road; the state owns most of the interurban lines and is fast absorbing the exchanges. In Italy and Spain concessions of 25 and 30 years have been granted to private companies on condition that at the end of the franchise term the telephone system shall become public property without any payment to the companies. Germany, Luxemburg, Wurtemberg, Bulgaria, Bavaria, and some of the Australian Republics began with public telephones and have retained them.

Thus in seven countries that began with private telephones we see a transformation to public ownership, and provision for it in two others,<sup>6</sup> while not one of the countries that began with public telephones or have had them now for a number of years, show any disposition to transfer them to private corporations. The movement is all one way in the telephone world.

It is substantially the same with the telegraph. With the exception of the sale of the experimental line from Washington to Baltimore, no country has changed from public to private ownership, but every country in the world that began with private telegraphs has changed to public ownership except, Bolivia, Canada, Cuba, Cypress, Hawaii, Honduras, and the United States, and even in Canada the government owns some of the commercial lines, so that the only countries without government ownership of commercial telegraphs are

	Bolivia,	Cuba,
Cypress,	Hawaii,	Honduras,
	and the	

#### UNITED STATES.<sup>7</sup>

The company is not the best in the world, but Uncle Sam seems to have a tendency to affiliate with Cuba and Hawaii in more ways than one. France, Germany, Russia, Sweden, Norway, Den-

<sup>6</sup> In Austria, Belgium, France, and Switzerland the transformation is complete, the telephone systems in those countries being now entirely public property.

<sup>7</sup> See the *Telegraph Monopoly Arena*, vol 15, p. 251, and authorities there cited.

mark, Switzerland and some other nations built their own lines at the start. In Belgium and in the Netherlands some of the early lines were built by the government and some by private enterprise. The government lines proved the most satisfactory and the public system was rapidly extended both by direct construction and by the purchase of private lines. In England the telegraph was originally private but became public in 1870. Even in the United States the government puts up military telegraph lines, and it is a common thing for cities to own police and fire alarm systems.

In the history of railways the power of the movement toward public ownership of monopolies is equally apparent. Prussia at first adopted the private system almost wholly, the State contenting itself with building lines in out-of-the-way districts where private enterprise would not condescend to go—in Southern Germany, on the other hand, the nations considered the making of the railways an exclusive function of the State—for years the two systems worked side by side, with the result, not of showing South Germany the need of a change to corporation railways, but of showing North Germany the need of a change to the public system, so that the Prussian Government bought up the private railways, and now owns nearly all (about nine-tenths) of the mileage in the State; Saxony learned the same lesson and bought all the railways belonging to private companies; Belgium tried both systems, with the result that in 1870 the Government decided to buy out most of the private lines; on a referendum after thoro discussion Switzerland has voted to buy the railroads; in Austria-Hungary, Holland, Norway, and other countries the movement is from private railways to a State system, gradually enlarging its scope and absorbing the private lines; in France the reversion of the private railways is in the State, and they will become public property when their terms expire; in Australia the same double experiment with public and private roads has been made with the same results—continuance of public ownership wherever adopted, and change from private to public, until now nearly the whole system belongs to the Government, some colonies having no private roads at all; such illustrations could be continued almost indefinitely, but enough has been said to reveal the law of the movement.

### THE MOVEMENT OF HISTORY.

The recent remarkable growth of public ownership discussed in the preceding section is but a part of one of the greatest, most fundamental and far reaching movements of history. From the dawn of civilization to the present day, with a wave-like motion at times, but with ever increasing volume, the movement toward public co-operation has grown and swelled and gathered force till more than 300 different

varieties of national and municipal undertakings in the principal countries of the world are now enumerated,<sup>1</sup> and the list is still expanding. The primitive man was an individualist pure and simple. He wandered in primeval forrests in the utmost independence, attending to his own wants and entirely innocent of co-operative effort for the public good. At first man had to depend on individual effort even for defense of life. His own strength and the aid of such of his fellows as might choose to come to his aid were all he had to rely upon. But after a time as men grew more intelligent they found a better way. They united in tribes and nations for mutual defense and aggression. The whole strength of the nation was put behind each man to defend him from harm. Formerly it had taken the whole of a man's time to get his meals, train himself for battle, and defend himself and his family, and there was no security for property even if he had had time to accumulate it. But the nationalization of defense brought far greater security and released a large part of the energy previously given to conflict and the preparation for it, and made possible the commercial, material, intellectual and moral development of modern times.

There was a time when the only remedy for injustice was private action. Quarrels were fought out by the disputants and such of their neighbors as chose to join in the affair. A robbery or murder was punished by some of the persons directly affected. But the administration of justice has become a public business now, except as between a corporation and its employees, where the old method persists in the form of strikes and lockouts.

There was a time when education and fire protection, roads, bridges and canals, hospitals, parks, cemeteries, etc., were wholly private affairs. Now they are very largely public. Private turnpikes and bridges are getting scarce, and the public schools are overwhelmingly predominant up to the college or academy grade. The rapid movement toward public absorption of water works, gas and electric plants, street rail-

<sup>1</sup> Vrooman's "Government Ownership."



ways, telegraphs, telephones and railroads has already been noted.

Is this movement a mistake? Shall we abandon the public water works, and the post office, the public streets, bridges, parks, libraries, museums, schools, courts, armies, navies, etc.? Shall we give the army to a Yerkes syndicate? And the navy to a Gould corporation? Shall we give up the courts to a Rockefeller trust? Or the roads and schools to a Hanna combine? If not, if we would not think of going back to private ownership, in the businesses that have been given to public management, then let us be consistent and aid the movement to give other similar industries the benefits of public operation and complete co-operation. Would you think well of one who opposed the establishment of public courts, or schools, or highways, or water works years ago? If not, be careful not to oppose the corresponding movements of your own time. Perhaps we can help ourselves most clearly to see the matter in its true light, by remembering that even the government itself was not so very long ago a private monopoly, owned by the king or emperor or a few aristocrats, and that the chief complaint about it now, where complaint exists, is that it is still too much subject to private control, that is, its socialization is not yet perfect, and progress requires the completion of the process.<sup>2</sup>

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<sup>2</sup> Public ownership may come thru government action or thru the gradual crystallization of co-operative groups in wider and wider circles till the all-inclusive circle of public ownership is reached. The latter is probably the superior method where it is practicable, especially in fields not occupied by oppressive and conscienceless monopolies. *The extent to which public ownership and co-operative effort have replaced separate individual action in any community is one of the surest tests of the degree of its civilization.*

The ordinary processes of development are well described in a paragraph by Prof. Seligman of Columbia University in the New York Independent May 6, 1897. I have called it:

#### THE FIVE STAGES.

"In all the media of transportation and communication there seems to be a definite law of evolution. Everywhere at first they are in private hands and used for purposes of extortion or of profit, like the highways in mediæval Europe, or the early bridges and canals. In the second stage they are 'affected with a public interest,' and are turned over to trustees, who are permitted to charge fixed tolls, but are required to keep the service up to a certain standard; this was the era of the canal and turnpike trusts or companies. In the third stage the Government takes over the service, but manages it for profits, as is still the case to-day in some countries with the post and the railway system. In the fourth stage, the Government charges tolls or fees only to cover expenses, as until recently in the case of canals and bridges, and as is the theory of the postal system and of the municipal water supply with us at the present time. In the fifth stage the Government reduces charges until finally there is no charge at all, and the expenses are defrayed by a general tax on the community. This is the stage now reached in the common roads and most of the canals and bridges, and which has been proposed by officials of several American cities for other services, like the water supply."

## PUBLIC SENTIMENT AND AUTHORITY.

*Jefferson and Jackson.*

While Thomas Jefferson was President, in 1806, Congress passed an act for the construction of a national road from Cumberland, Maryland, thru Virginia into the State of Ohio, and the act received the President's approval. This was as great a public enterprise for that day as the building of a national railway from ocean to ocean would be to-day. In his writings Jefferson strongly approves of national roads and canals,<sup>1</sup> and shows a settled belief in the policy of internal improvements under public initiative and control. This is the ground one would naturally have expected the Father of Democracy to take, but men do not always do what you expect them to. Jefferson, however, was a consistent democrat in his industrial as well as in his political philosophy.

President Jackson also believed in public ownership. By his writings and his votes he was committed to an internal improvement policy.<sup>2</sup> In his inaugural, 1829, he said: "Internal improvements and the diffusion of knowledge so far as they can be pushed by the constitutional acts of the Government are of high importance."<sup>2</sup> In his very first message (1829) General Jackson declared war on the Corporation Bank of the United States. He said that its stockholders would ask for renewal of privileges at the expiration of its charter in 1836, but he should advocate a National Bank to belong to the Government, instead of a corporate bank belonging to a few stockholders. He did the same thing in his second and third messages.<sup>3</sup> The bank question was made an issue in the presidential election,<sup>4</sup> and Jackson won and vetoed the re-charter

<sup>1</sup> See Tucker's *Life of Jefferson*, vol. II., pp. 218, 448, 521; also "Memoirs, etc., of Jefferson," edited by T. J. Randolph. In letters to Edward Livingston and others Jefferson doubts whether Congress has power to pass a road or canal bill (at least without providing for the assent of the states affected as in the Cumberland law) and recommends an amendment that will give the national government full power to make roads and canals, saying "There is not a state in the Union which would not give the power willingly by way of amendment." (Letter to Livingston April 4, 1824.) It seems that the sentiment of Jefferson's compatriots was also strong in favor of public improvements and not so particular about explicit authorization by special amendment. Jefferson says in a letter to Madison in Dec., 1825, after the President's Message, "The torrent of general opinion sets so strongly in favor of it (national roads, and canals, and other internal improvements) as to be irresistible."

<sup>2</sup> Parton's *Life of Jackson*, vol. 3 p. 171.

<sup>3</sup> *Ibid* pp. 272, 342, 374.

<sup>4</sup> *Ibid* p. 395.

bill, saying "Here is a small body of men and women, the stockholders of the Bank of the United States, upon whom the Federal Government has bestowed, and by the renewal bill proposes to continue, exclusive privileges of immense pecuniary value, and by doing so restricts the liberty of all other citizens. *This is a monopoly.*"<sup>5</sup> Then follows a statement of specific evils, in which the President says that such a franchise will enable "a few individuals to wield a power dangerous to the institutions of the country." The General was able to defeat the corporate bank, but he could not establish a public bank without the co-operation of Congress.

#### *A National Telegraph.*

In 1844 Henry Clay eloquently advocated national ownership of the telegraph. He foresaw from the very start the dangers of a telegraph monopoly in private hands. For half a century Congress has been bombarded with appeals for a postal telegraph. Charles Sumner, Hannibal Hamlin, General Grant, Senators, Edmunds, Dawes, Chandler, and N. P. Hill, General B. F. Butler, John Davis, Postmaster-Generals Johnson, Randall, Maynard, Howe, Creswell, and Wanamaker, Professor Morse, the inventor of the telegraph, Cyrus W. Field, the founder of the Atlantic Cable and a director in the Western Union Company, James Gordon Bennett, Professor Ely, Rev. Lyman Abbott, B. O. Fowler, Judge Clark, Henry D. Lloyd, Dr. Taylor, T. V. Powderly, Samuel Gompers, Marion Butler, and a host of other eminent men in every walk of life have championed the cause of the people. James Russell Lowell, Phillips Brooks, Francis A. Walker, and others of the highest character and attainments have expressed their sympathy with the movement. Legislatures, city councils, boards of trade, chambers of commerce, and labor organizations representing millions of citizens have joined in the effort to secure a national telegraph. The *New York Herald*, *Boston Globe*, *Philadelphia Times*, *Chicago Tribune*, *Albany Express*, *Washington Gazette*, *Omaha Bee*, *Denver Republican*, *San Francisco Post*, and a multitude of other

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<sup>5</sup> *Ibid.* p. 406.

papers representing every phase of political opinion have earnestly advocated the measure. Two political parties have definitely demanded a government telegraph; more than two millions of men by vote and petition have asked for it.

Nineteen times committees of the House and Senate have reported on the question, seventeen times in favor of the measure and twice against it. One of the latter is a mild two page report made without investigation by John H. Reagan of Texas. The other adverse report was made in 1869, on the ground that the five years of security promised the companies by the law of 1866 had not yet elapsed.

The following opinions of eminent men show the drift of sentiment and authority in favor of public ownership and operation of street railways. They are extracts from letters written to me during the Boston campaign for municipal ownership in 1897.

*Municipal Ownership of Street Railways.*

*Opinions of Eminent Men.<sup>1</sup>*

DR. LYMAN ABBOTT:

"I am heartily in favor of municipal ownership of street railways. The experience of Manchester and Glasgow abroad has shown what may be done under right conditions; but we have another illustration nearer home, and, in some respects more convincing. The Brooklyn Bridge is both owned and operated by a joint commission representing the two cities of New York and Brooklyn. The government of these two cities has been, in the past, thoroughly corrupt, yet I think there are very few persons who doubt that the conveniences for the traveller furnished by the Brooklyn Bridge are very much better than those furnished by the elevated system of railways or by the trolley cars on either side the river. Moreover the fares on the railroad have been diminished, and the fares for foot passengers abolished. No money-making corporation could be expected to do the latter; probably no money-making corporation would have done the former. In my judgment, our cities are quite competent to own and operate their own municipal systems, and municipal ownership and operation, instead of increasing, would diminish corruption, which is now largely due to the partnership between corporations and the city."

DR. FELIX ADLER:

"I am strongly in favor of municipal ownership wherever grave political objections do not stand in the way. (I should not have

<sup>1</sup> See further Appendix II, G to L.

avored municipal ownership in New York at the time when Tammany was still in power.) And my reasons are two: First, the advantage to the general public in the shape of cheaper fares, beter service and the like. Second, the advantage to be expected to accrue to the employees, and, indirectly to the wage-earning class in general by a tendency to advance wages and to improve the conditions under which labor is performed."

PROFESSOR RICHARD T. ELY:

"I am much pleased to learn that there is a strong movement in Boston to secure municipal ownership of the street railways. It is especially encouraging to know that the association formed for this purpose includes such men as Hon. Robert Treat Paine, Dr. Edward Everett Hale, Mr. Edwin D. Mead, Col. Thomas Wentworth Higginson and Hon. Josiah P. Quincy. I need scarcely say that I am in entire sympathy with the movement. I have heard of nothing recently which strikes me as more encouraging. It gives one new hope for the future of the country. If the movement is successful it will not only give decided direct benefits to the people of Boston in the way of cheaper transportation and improved service, but it will bring indirect benefits to which even more importance must be attached; it will contribute to the purification and elevation of political life. It will be the greatest contribution to municipal reform yet effected in the United States."

WM. DEAN HOWELLS:

"I am heartily in favor of municipal ownership of street railways, because it will cheapen the fares to those who most need cheap fares, and will best serve all the interests of the public. I think there is every *reason* for it, and I have never heard of one against it, though I have heard of some arguments, and I know there are some prejudices."

HENRY D. LLOYD:

"The organization which you have formed to secure the ownership of the street railways of Boston by the city, seems to me one of the most important movements which has ever been undertaken in Boston for the emancipation of the people. The sentiment in favor of municipal ownership of such monopolies I find very strong over the country; and I believe that the initiative which you in Boston have taken, will have a powerful effect in crystalizing that sentiment into action. Cities should own monopolies for the supply of the necessities of life like transportation, water, etc., because it is as true of communities as of individuals that if they want their business well done, they must do it themselves; and this is certainly their business. The public, as experience proves, cannot resist the intense, powerful, and concentrated manoeuvres of private ownership. The diffused interest of the public is an unequal antagonist in such a struggle.



"The great secret of social wealth is co-operation, and it must now be acknowledged to have been proved abundantly by experience that citizens can co-operate as successfully as stockholders. Private administration of such supply of the necessities of life is the most expensive. The public will work for itself without the cost of the enormous profits which are now paid. There is an irrepressible conflict between private self-interest and public self-interest. Private self-interest must economize on speed, seats, extensions, and in every other possible way, while it is to the profit of the public to pursue the opposite course. It is impossible for private self-interest to take into account in its extensions and fares such a public consideration, for instance, as the distribution of the population in healthful instead of unhealthy districts; whereas it would be to the direct interest of the public to put this first. In illustration: it was recently pointed out in a debate in the London County Council that a large working-class population had been settled in the environs of London on a low and very unhealthy flat, though just beyond was a range of high and salubrious hills which were inaccessible on account of the greater cost of reaching them. It would be money in the pocket of the community to carry these people past the miasmatic lands and settle them on the hills. But only the public could let such a source of profit enter into its calculations. It is not to the interest of the public that working men and women or working children, or any of the rest of the population, should be huddled in tenements instead of being scattered amid healthful surroundings; nor that they should be over-taxed two cents twice a day, for an extortionate profit to the stockholders of the street car company. This four cents a day amounts to a tax of twelve dollars a year; and yet the per capita share of each inhabitant of this country in the cost of the Federal Government is only \$4.50 a year."

DR. W. S. RAINSFORD:

"To my mind, the question of municipal ownership of city franchises is quite one of the more important issues before our people. The chief hardship in the life of the working-people in the cities of the United States, more especially the Eastern cities, is the enormous rent they are obliged to pay—a rent often amounting to 30 per cent. of their gross earnings, which percentage is economic ruin. Now where the rents are high, city franchises are proportionally valuable. It can be proved, for instance, that in the City of New York, the franchises are more valuable than in any other city in the world. Now, these franchises are the absolute property of the citizens. It must be apparent to everyone that they should be so managed, that from them the public may receive the maximum of profit. Now, as a matter of fact, the franchises have been used by the ins in city politics to bribe their way into power. The city's franchises have been consequently a fat purse out of

which enormous rewards are paid for political support. And who is the loser? Above all, the working-man, whose rent, or to use another word equivalent to that, whose taxes the proceeds of these franchises would enormously reduce. To-day, for instance, the City of New York raises close on \$40,000,000 a year in taxes. I believe, if the franchises of that city, docks, ferries, railroads, gas, etc., were on an absolutely honest basis, carried on as business concerns for the city's benefit, the net income arising from them would be over \$15,000,000 a year.

"The objection immediately raised to any and every scheme of municipalization of the franchises is, you cannot do those things until you have got an honest and competent civil service. To such an objection I reply boldly: there is one way and one way only to get honesty and competence in civil service, and that is by making the service of such vital importance to the public, that the public itself will insist on an honest service. Nor is this an idle dream. It has been and is being carried into splendid effect in scores of the principal municipal centres in the Old World."

DR. CHAS. B. SPAHR:

"I believe in municipal ownership of street railways, because only through such ownership can charges be reduced to the cost of the service, and the competitive rate of interest on the capital actually invested. The fixing of street car fares to pay interest on capital never lent to the public, I regard as extortion of a peculiarly injurious kind. It is economically wasteful, because it cuts in two the normal patronage of the road, and so prevents the reduction in the cost of service which increased patronage would bring. It is unjust politically, because the tax takes the same amount from families worth less than one thousand as from families worth more than one million. It is unjust socially because it aggravates the over-crowding of the poor into the immediate neighborhood of the workshops. Within twenty miles of New York there are as many acres as there are families, and with rapid transit such as municipal ownership could afford, the evils of the tenement house system would be abolished."

DR. C. F. TAYLOR:

"It is strange that it is so hard to awaken the people to the fact that they are heavily taxed by private corporations. Your 'Arena' articles conclusively proved that with public lines street transit is practicable at 2 cent fares in our larger cities. Our citizens are taxed three extra cents for street car fare. If a man or a woman rides to work in the morning and back in the evening, that means a tax of 6 cents per day. By riding home to dinner and back to work again, it means a tax of 12 cents a day, and if we add fares to and from a place of amusement in the evening, it means a tax by the street railway companies of 18 cents per day. If we calculate this by the year, we are better able to

realize the burden of this great and unjust tax. If a shop girl rides to her business in the morning and back in the evening, she is compelled to pay 10 cents for the two trips instead of 4 cents, which it would be at 2 cents per ride. This tax of 6 cents per day amounts to 36 cents per week, and for the fifty-two weeks in the year, it amounts to \$18.76. If we add extra rides on Sundays, holidays, evenings, etc., the amount of the tax will easily foot up to \$25 per year. That such a tax should be levied on shop girls, seamstresses, mechanics, washerwomen, bootblacks, etc., is outrageous. The wealthier classes of citizens as a rule, pay a much heavier tax, for they ride more frequently, not having to count the cost of such a seeming trifle as a street-car fare. So the personal tax from this source upon the average merchant or lawyer would be two or three times more than that upon the average shop-girl, or from \$50 to \$75 per year. But when we add to this the tax upon the members of an average family, the amount increases heavily. Take, for example, the family of a mechanic, whose son is an apprentice, whose daughter is a shop girl or seamstress, and whose daughter at home attends the High School. This tax falls heavily every day upon the four members of this family, and also upon the wife whenever she goes down town.

"Does the average voter think of this on election day? Suppose this tax were paid every year, instead of every day in the year. Then imagine our voters going up to the polls, each one paying his street-car tax and then casting his ballot. As we have seen above, many a mechanic with an average family would have to pay \$50 or \$100; a merchant or professional man would be taxed much more heavily, particularly if he has a large family. Suppose we imagine a procession at the polls on election day, each voter depositing his street railway tax for the year, and then depositing his ballot, do you think it would take him many years to find out that by municipal street car ownership all this tax could be saved? Perhaps the average voter would rather devote a few hours now and then to the subject of municipal transportation, and save this heavy yearly tax. Yet now he pays the tax just the same, only daily instead of yearly, and it is difficult to wake him up to the fact that he is paying any tax at all. And this is taxation without representation. The voters have no representative in the managing board of the street car companies."

Since the Boston campaign a "National League for Promoting the Public Ownership of Monopolies" has been formed to spread a knowledge of the facts about monopoly, and issue brief statements of opinion from time to time as occasion may require. The association is called for short "The N. P. O. League." The following is a list of the

## MEMBERSHIP

Of the National League for Promoting the Public Ownership of Monopolies.<sup>1</sup>

Dr. Edward Everett Hale, Boston.	Prof. Frank Parsons, Boston.
Rev. B. Fay Mills, Boston.	Dr. Charles B. Spahr, New York.
Gov. Pingree, Detroit.	Hon. George Fred Williams, Boston.
Dr. John Clark Ridpath, New York.	Pres. Thomas E. Will, Manhattan.
William Dean Howells, New York.	Henry D. Lloyd, Chicago.
Senator Marion Butler, Washington.	Dr. C. F. Taylor, Philadelphia.
Hon. Herbert Welsh, Philadelphia.	B. O. Flower, Boston.
Prof. John R. Commons, New York.	Pres. George A. Gates, Grinnell.
Dr. W. S. Rainsford, New York.	N. O. Nelson, St. Louis.
Prof. George D. Herron, Grinnell.	Hon. John Breidenthal, Topeka.
Samuel Gompers, Washington.	Prof. Graham Taylor, Chicago.
Rev. Washington Gladden, Columbus.	Hon. S. M. Jones, Mayor of Toledo.
Prof. J. Allen Smith, Seattle.	Wm. A. Clark, Lincoln House, Boston.
Dr. E. B. Andrews, Chicago.	Marion M. Miller, New York.
Rev. Russell H. Conwell, Philadelphia.	Miss Diana Hirschler, Philadelphia.
Rev. Chas. M. Sheldon, Topeka.	Prof. Helen Campbell, Denver.
Hon. S. L. Black, Mayor of Columbus, O.	Rev. W. D. P. Bliss, Los Angeles.
Edward Bellamy.*	Miss Helen Potter, Boston.
Col. Thomas Wentworth Higginson, Cambridge.	Pres. Frances E. Willard.*
Hon. Henry Truelsen, Mayor of Duluth.	Edwin D. Mead, Boston.
Ex-Gov. Wm. Larrabee, Clermont, Iowa.	Gov. Rogers, Olympia, Wash.
Charlotte Perkins Stetson, New York.	F. U. Adams, Chicago.
Rev. Herbert N. Casson, Ruskin, Tenn.	Dr. Anna Shaw, Philadelphia.
Pres. Eltweed Pomeroy, Newark.	Robert A. Woods, Boston.
Ex-Gov. John P. St. John, Olathe, Kans.	Hon. T. S. McMurray, Ex-Mayor of Denver.
	John DeWitt Warner, New York.
	Hon. John MacVicar, Mayor of Des Moines.
	Dr. Geo. C. Lorimer, Boston.
	Hon. Lee Meriweather, St. Louis.
	Mary A. Livermore, Melrose, Mass.
	Elizabeth Cady Stanton, New York.

\* Deceased since joining the League.

The first person named in the right hand column is President of the League; the next seven, together with the Presi-

<sup>1</sup> The purposes of the National League for Promoting Public Ownership of Monopolies are:

(1) To educate the people upon the monopoly question.

(2) To bring a national weight of opinion and authority to bear upon local, state or national efforts in the direction of public ownership whenever it may seem wise to do so. Brief statements of fact and expressions of opinion will be issued from time to time by the League or its executive council. The association is not political, but may direct attention to legislative measures, and advocate them before legislative committees and the public.

Membership in the association does not commit one to the unqualified advocacy on any and every occasion of the immediate absorption of monopolies by the public. It is the *principle* of public co-operative effort as a promising remedy for the evils of oppressive private monopoly that the association has in view—the principle to be applied, not hastily and indiscriminately, but with due regard to all the conditions of each particular case.

Membership is confined to persons who have done earnest work in some progressive or humanitarian field, or whose position, character and attainments give their opinions a commanding weight, and their services a special value. Names of such persons may be proposed for membership and may be submitted by the president or executive council, and shall be submitted on a petition of five per cent of the existing membership and upon a two-thirds referendum vote to that effect the persons so proposed shall become members.

No statements will be issued in the name of the League until adopted by a referendum vote. Any member disapproving a statement may require that fact to be specified in case the statement is issued by the League. Statements may be submitted to a referendum by the president or executive council, and upon an initiative of five per cent of the members the president shall submit the statement or statements set forth in the petition.

The League and its purposes and methods shall be subject to modification by a two-thirds referendum vote. Such change may be submitted at any time by the president and executive council, and shall be submitted by them on a twenty per cent petition to that effect.

dent, constitute the Executive Council; and the first sixteen in the left hand column are Vice Presidents. Several statements have already been adopted for issue by referendum vote of the League, among them, "The Two Bridges," "The Five Stages," and "The Wisdom of Glasgow," already quoted, and the opinions by Mayor Jones, Mayor MacVicar, Dr. Shaw and Professor Ely, cited below, and "The Railroads of Switzerland," given at the close of this section.

I would like, if it were possible, to quote from every one of the distinguished members of the League, but space forbids more than a few citations, from the large amount of valuable material at hand. The following is an extract from the opinion by Hon. S. M. Jones, the famous Golden Rule Mayor of Toledo, adopted by the League:

"The movement for public ownership is government seeking the good of all as against the individual who seeks only his own good. It is a recognition of the fundamental fact that the humblest citizen is entitled to the greatest degree of comfort that associated effort can provide. It is organized love, manifesting itself in service. It is patriotism of the highest and purest type. It is the casting down of idols and the lifting up of ideals. It is dethroning the millionaires and exalting the millions. Happily, we are passing away from the abject worship of mere dollars to a realization of the truth so tersely stated by the simple Nazarene nearly nineteen hundred years ago: Ye cannot worship God and Mammon. And we are coming to measure men not by their ability to organize industry and use their fellow men simply as profit-making machines but by their ability to organize industry and serve their fellow men.

" 'Municipal ownership is all right with regard to water works, but not as to street railways,' said a learned judge to me recently. If I were a young man that had been trained to a proper respect for the bench, I presume I would have accepted this declaration as final, because of the learning of the judge, but had this judge used his reason instead of accepting the reasoning of some hired man employed by the corporations, he would have known that the same principle applies to both classes of service, and that if it is good for the city to own its own water works, it is good that every utility that ministers to all of the people shall be owned in the same way.

"The people will learn that they can serve themselves better without profit than a private corporation can serve them with profit as an incentive for their effort.

"But the greatest good that we are to find through municipal ownership will be found in the improved quality of our citizenship.



"I believe that the great need of the hour is that the people shall be educated upon this subject of co-operation in social service."

The following statement, adopted for issue by the N. P. O. League, is an opinion by Hon. John MacVicar, Mayor of Des Moines and ex-President of the League of American Municipalities:

"There must be an end of the controlling and corrupting of our city governments by those interested in the manipulating of public utilities, even if the last vestige of private ownership in them shall be up-rooted. To those good but misguided people who without having perhaps devoted time to examination of the subject, and are therefore disposed to oppose municipal ownership and control of the natural utilities represented by water, gas, street railway and electric lighting plants, I would put this pertinent question: Whence the fertile source of those corrupt influences which too often debauch city councils, and as often lead state legislatures, and perhaps sometimes our national Congress astray? Did they ever hear of a city or state tempting a public official with bribery to betray the interests he has sworn to protect? Surely not. The potent cause to which public officials sometimes yield, must be sought for elsewhere. Are not the colossal opportunities offered through the medium of exclusive privileges granted by city councils and legislatures the very foundation of this evil? I think you will agree with me that they are. Therefore if these valuable franchises, these splendid privileges, were reserved to the cities, would not this source of corruption which has caused legislative bodies to become a byword among the people, cease to exist?

"Such a change involves the necessity of civil service reform. . . . Burden develops responsibility. There is a reserve of patriotism and capacity of self-government in our citizenship, to which we are not afraid to appeal. Nothing could do more to bring out the latent virtue of the indifferent citizen than freighting the ship of state with still dearer interests. I am not afraid to startle our money-making voters by producing a situation which will alarm them into a state of perpetual political vigilance. Arouse them to the seriousness of the prevailing conditions, and the spasmodic energy which now cleans the augean stables of municipal corruption once in ten or fifteen years, would be harnessed by unavoidable necessity into constant connection with the public services whose functions would be to supply them with street transportation, light and water, and would exert an influence that could not be satisfied excepting with the best service possible. Every citizen would be interested in securing the greatest efficiency in the public service and in a very short time demands would be made by a quickened and enlightened popular sentiment for the enactment of a strict civil service law. So long as the corporate interests operate

these public utilities for private gain just so long will we have uncompromising opposition to civil service and good city government. Remove first the incentive to this opposition, which to my mind can be accomplished by removing our public franchises from the public mart, and a new era will dawn in which the best citizenship will be the dominant force in municipal government."

Parts of the opinion by Prof. Ely referring to corruption and the advantages of public water supply have already been quoted. A few further paragraphs may be of interest here:

"I unhesitatingly advocate public ownership and management for gas works. \* \* \* When we take up electric lights, we shall find no reason to abandon the principle of local self-government and municipal self-help. \* \* \* Street railroads are one of the most important natural monopolies, and a tendency for public ownership and management is beginning to become manifest. There is not a shadow of doubt that passengers could be carried in Baltimore for three cents—more than is charged in Berlin where the companies must keep the streets paved from curb to curb, must provide each passenger with a seat, must, in laying tracks, have some respect for the rights of owners of vehicles, and do a thousand and one things which an American corporation does not dream of, to say nothing about the fact that in 1911 their entire property reverts to the city without compensation."

The following paragraphs adopted for issue by the N. P. O. League, are from Dr. Albert Shaw, our most eminent writer on municipal government, and one of the world's profoundest students of, and highest authorities upon, the municipal questions we are considering:

"All the monopolies of service, such as gas, water, trams and the like, should belong to the community. Simplify the administration, trust the people, give the municipality plenty to do, so as to bring the best men to the work, keep all the monopolies of service in the hands of the municipality, and use the authority and influence of the municipality in order to secure for the poorest advantages in the shape of cheap trams, healthy and clean lodgings, baths, wash-houses, hospitals, reading rooms, etc.

"The pressure that would be brought to bear on the government to produce corruption under municipal ownership of monopolies like gas, electric light, transit, etc., would be incomparably less than the pressure that is now brought to bear by the corporations.

"The wear and tear upon the morals of a weak municipal government are greater by far when it comes to the task of granting franchises—that is to say, of making bargains with private corporations—than when it is attempted to carry out a business undertak-

ing directly on the public account. Thus jobbery and rascality, wastefulness of public money, and bad results in the end, are more likely to be the outcome when the contract system is used in street cleaning, paving and various other public works, than when the municipality employs its own men to clean its own streets, lay its own pavements, and do its own public work on direct municipal account.

"Our municipal officials are elected or appointed for short terms. The city's legal advisers draw small salaries, and have no expectation of remaining in the public employ for more than a few brief years at most. They hope and expect after leaving the public employ to find lucrative private practice. Such practice can hardly be obtained except through the favor of the rich corporations. What motive, therefore, could impel the legal advisers of an American municipal government to fight desperately for the public interest as against the great array of legal talent representing those corporations that seek to gain, to enlarge or to renew franchises, on terms prescribed by themselves?

"In studying German contracts one is always impressed with a sense of the first-class legal, financial and technical ability that the public is able to command, while American contracts always impress one with the unlimited astuteness and ability of the gentlemen representing the private corporations.

"The ablest lawyers in all our cities are retained by these private corporations. They are given fat fees, directorships, stocks and bonds, and all sorts of pecuniary emoluments, besides political and social consideration. In return, they are expected to use their sharp wits, their technical knowledge of corporation law, and their training in the practical art of politics, to get the better of the community at large, and thus to retain or obtain for the benefit of their respective corporations very valuable public privileges, which ought not to be granted at all except upon the payment of their full value, with their exercise always subject to full public control. When municipal franchises and privileges are to be granted, it is not the municipal authorities that make the terms, but the private companies. The laws and ordinances that have to do with the granting of these privileges are carefully prepared by the attorneys of the corporations. They are never drafted by the legal representatives of the state or the city.

"The enormous sums of money contributed for purposes of political control by the corporations enjoying municipal supply privileges, have given us the boss system in its present form. And the boss system, which, in fact, knows no distinction of political party, is fast destroying state and municipal government as the steadfast and loyal servitor, defender and promoter of the public interest.

"We find public and municipal authority and prestige weak and low; while the authority and prestige of private corporations engaged in such services of municipal supply as public illumination and street transit are enormously active and strong. No such relative disparity as that between the prestige and strength of municipi-

pal government and the prestige and strength of private corporate influence, exists anywhere else in the world. Direct ownership and operation would at least tend to build up the municipal government on the side of its dignity and prestige.

"The views that one encounters in the United States, which presume to settle all such practical questions in advance by the recital of dogmas touching the nature of government, would be deemed the merest silliness by practical men in Europe. Those men see no possible reason why a modern government, which is, after all, nothing but the organization of the people for their own benefit, should not render the public any service which upon careful inquiry it may be agreed that the government can render with actual and permanent advantage to itself and the citizens."

Two other authorities of the highest character, Professors Bemis and Commons, also take strong ground in favor of the public ownership of monopolies, but their writings have been so often referred to in this chapter that a special citation here seems unnecessary.

Hon. Josiah Quincy, the progressive Mayor of Boston, has established municipal baths, a municipal paper, and a municipal printing plant. In the *Arena* for March, 1897, p. 532, *et seq.*, he expresses himself in favor of public ownership and operation of electric lighting plants, and in respect to transit suggests the advisability of city ownership of the tracks at least.<sup>1</sup> After speaking of the difficulties in the way by reason of the franchises granted private companies and the large amounts that have been invested in their securities, he says:

"But aside from the question of dealing fairly with vested interests, there seems to me to be no reason why an American city should not take up any service of this character which may be recommended by business and financial considerations. There is no principle that stands in the way, for instance, of the municipal ownership and operation of an electric light plant. It is purely a commercial question in each particular case. The electric lighting business in particular, with the present improved dynamos and engines, is one which a properly organized city ought to be able to conduct for itself with some economy and advantage.

"The argument is sometimes made that new fields of work of this character cannot safely be entered upon until the civil service

<sup>1</sup> This is the recommendation of the Massachusetts Special Committee appointed to investigate the street railway question. (Report Feb., 1898.) The report is a valuable one but is written with a strong bias in favor of the private companies as against complete municipal ownership and operation, and is marred by statements and omissions likely to mislead the unwary reader, as has been shown by Prof. Bemis' able comments on the report. (Municipal Monopolies, pp. 518-9, 531, 538, 557, 569, 639, 648-9.)

system is more firmly established in our cities, and their general standard of government is higher; but it does not seem to me that such reasoning rests upon a sound basis. Any extension of municipal functions must tend to arouse a public interest which cannot but assist in improving administration and hastening the adoption of a strict civil service system. The indifference of the more intelligent and well-to-do citizens, and their willingness to vote their party tickets blindly, while exercising little or no influence over party nominations, is the curse of many of our cities. Business men of large and unselfish views can control a city government if they will take the pains to do so. If some extension of municipal functions in the directions above indicated would arouse some who are now apathetic to a sense of their vital interest in sound administration, it would do a good work. We should not, therefore, wait for a perfect municipal organization before we undertake any desirable addition to the services now rendered directly by the city, but should be willing to trust something to the educating and awakening effect of imposing further responsibilities upon a municipal government, and thus bringing it into a new and close relation with the citizens.

"Only the business considerations in favor of municipal ownership have been hitherto touched upon, but the broad political considerations are even stronger. The power now necessarily wielded by the great corporations which control such branches of public service as lighting and transportation often gives them too great an influence over municipal governments. It must be admitted that there have been many cases in our American cities where corporations have practically dictated the action of city councils. Their influence over nominations and elections, where they choose to exert it, may often be a determining one. Even a corporation holding a municipal franchise that has nothing further to ask of the city, and only desires to be allowed to prosecute its business without interference, is often drawn into municipal politics by the skilfully planned attacks of politicians who have purposes of their own in view.

"It may be urged that the influence of the additional city employes made necessary by the taking over of branches of service now performed by corporations will be equally great and equally selfish; but experience proves pretty conclusively that this is not the case. It has frequently been demonstrated that any influence which may be exerted by municipal employes in favor of a party in power is likely to be fully offset by the opposition of those who have been disappointed in obtaining public office or employment. And even those engaged upon city work are sure to have grievances, real or imaginary, against the administration in power, and are never solidly united in its favor. Moreover, with the extension and firmer establishment of the civil service system, public employes are coming to feel fairly secure in their positions, regardless of political changes."



Hon. James D. Phelan, the far-sighted Mayor of San Francisco, writes as follows in the *Arena* for June, 1897, pp. 991-3:

"The street car service, the telephone, telegraph, garbage disposal, water and artificial light are owned by private corporations. As might have been expected, the result has been the creation of powerful monopolies and the imposition of high rates for all kinds of service, and to maintain them we have, as a corollary, the suspected corruption of public bodies. Legislators and supervisors, and even courts are exposed to the machinations of these corporations, which, with the Southern Pacific Company, the overshadowing railroad monopoly of the state, have been classified by the people, in impotent wrath, as 'the associated villainies.' They have debauched politics and have established a government more powerful in normal times than the state government itself.

"These conditions emphasize the desirability of the public ownership of utilities, because, while better results could no doubt be attained, especially under a reform of the civil service, public bodies would not be exposed to the insidious inroads of corruption, which carries with it the ultimate destruction of representative government. Where the commodities supplied are a public and universal necessity, either natural or made so by the demands of civilized life, the state, in granting franchises, practically transfers with them the power of taxation. \* \* \*

"The growth and development of the business of a city depend very largely on the transportation facilities which it possesses within its limits and connecting with its suburbs. One system of street railway, for instance, costing less than \$9,000,000 to build and equip, and which collects over \$3,250,000 annually in fares, has issued stock for \$18,750,000, and has outstanding bonds for \$11,000,000, upon all of which it pays interest. Its earning power with five-cent fares should not be the measure of its value. Its value for the purpose of estimating reasonable dividends should be its actual cost. And, on this theory, such a system should supply the citizens of San Francisco with cheaper service, especially during certain hours of the day, when the working classes pay the toll permitted to be collected over the public streets.

"A gas company whose plant can be duplicated for less than \$5,000,000 is paying 6 per cent. dividends on \$10,000,000, and a water company, whose capitalization of stock and bonds amounts to \$23,000,000, and whose property, held for the legitimate purpose of supplying the city with water and not for the exclusion of competitors or for speculation, is very considerably less, is paying regular rates of interest to its stockholders and bondholders on the face value of its securities. I closely estimate that \$7,000,000 is annually paid by San Francisco for her water, light and street car transportation, a sum \$3,000,000 in excess of the amount raised last year by the municipality from direct taxation for the support of the local government.

"The state should not permit private fortunes to be made out of the necessities of the people, nor should city councils permit the use of public streets to become the means of oppression. Unjust and unnecessary taxation is oppression. The questions here involved are equally momentous with those which stirred to action the American revolutionists, and John Hampden before them. \* \*

"Modern American cities, careful to preserve representative institutions in their purity, should be prepared to own and operate public utilities. That is the ultimate solution of this disturbing question. Failing of this, the unequal and demoralizing struggle between the weak and the venal on the one side, and the strong and the unscrupulous on the other, must go on. In practice the power of regulation is the opportunity of the corrupt and the corrupter, and is no adequate remedy."

The Hon. Hazen S. Pingree, former Mayor of Detroit, and now Governor of Michigan, says:

"I was elected Mayor by the most influential people of the city. Directly after I was elected I discovered that the railroads were paying less than their lawful taxes. I said so, and the *railroad support* was lost to me. I found the gas companies charging exorbitant rates, and I said so, thus losing their support. I found bankers speculating with the city funds. I denounced them, and they said I was unsafe. I attacked the surface railroads, and they called me an anarchist. I was four times elected Mayor. I lost a lot of old friends, but I was elected by a larger majority each time. It is something to be proud of when the influential classes turn their backs on me and the common people stand by me. I have come to lean on the common people. They are the real foundation of good government.

In May, 1897, Mayor Pingree said:

"I am loth to surrender my belief in municipal control and accept the doctrine of municipal ownership; but I am free to confess that I am being gradually forced into the position of an advocate of ownership. The methods of franchise holders compel it, as also the ignorance and venality of many of the people's representatives. But much of this venality, I may say, is the outgrowth of corporate methods.

"I have advanced so far as to advocate ownership of street railway tracks, and through the manipulation of lighting companies I was compelled to force through the municipal ownership of a public lighting plant.

"After some seven years of struggle against extortionate rates and the exploitation of watered stock, I must admit that my hold on municipal control is feeble. The methods of franchise holders are forcing the expedient of municipal ownership, and yet they expend large sums of money to defend themselves against municipal ownership.

"Unless there is a great change in the present general outlook, indeed, as I am constrained by conditions to say, unless the leopard change his spots, we will be obliged to adopt municipal ownership as a defense against these franchise holders.

In November, 1897, he says:

"Good municipal government is an impossibility while valuable franchises are to be had and can be obtained by corrupt use of money in bribing public servants. . . . I believe the time has come for municipal ownership of street railway lines, water, gas, electric lighting, telephone and other necessary public conveniences, which by their nature are monopolies.

In 1898 the Governor says without qualification:

"THE REMEDY IS IN PUBLIC OWNERSHIP. This will not only solve municipal questions, but will bring railroads, express companies, street lines, telegraph and telephone companies and other agencies into the proper subjection.

The five mayors above mentioned, with Mayor Harrison of Chicago, Mayor Rose of Milwaukee, Mayor Truelsen of Duluth, Mayor Black of Columbus, Mayor Johnson of Denver, the Mayors of Atlanta, Cincinnati, and St. Paul, Governor Rogers of Washington, ex-Governor St. John of Kansas, ex-Governor Larrabee of Iowa, and other leading mayors and governors have come by actual experience to know that adequate regulation of corporate monopolies is a practical impossibility, and that public ownership is the only solution of the monopoly problem. The fact that such men advocate public ownership of lighting plants, transit companies and other monopolies, carries the matter beyond the realms of theory and puts it on a basis of business sense and practical necessity. They are men of affairs, several of them men of large wealth, all of them men of great experience in government, and all of them high in public esteem. The words of such men spoken for the public good have untold weight. From Jefferson to Pingree the record of authority for public ownership is overwhelmingly strong, especially when we remember that all who have lifted their voices against it are either *laissez-faire* theorists clinging to the worn out philosophy of a bygone age, or aristocrats at heart distrusting the people and *desiring* the monopoly of privilege by a few, or

business men whose financial interests are linked with private monopoly. (See Objections below.)

The sentiment of the general public is growing very fast in the direction of public ownership.<sup>1</sup> This is shown by the strong movements for municipal railways in Philadelphia, St. Louis, Chicago, Detroit, and other cities. In Chicago Mayor-elect Carter H. Harrison and each opposing candidate stood on a platform favoring city ownership of street railways.

At the Detroit convention of the League of American Municipalities in August, 1898, when 1,500 members of the city councils and other branches of city governments and many prominent mayors were present from cities in all parts of the country, the sentiment was overwhelmingly in favor of municipal ownership and operation of public utilities.

In December, 1898, the convention of the National Municipal League, received most favorably a municipal program and model charter presented by a committee consisting of Dr. Albert Shaw, Professor Goodnow and Horace E. Deming of New York, and Hon. Clinton Rogers Woodruff, Charles Richardson and Professor L. S. Rowe of Philadelphia, and strongly favorable to public ownership. Some of the provisions of the model charter are as follows:

Cities "may acquire or construct and may also operate on their

<sup>1</sup> In Oct., 1895, a committee of the Boston Common Council reported unanimously in favor of city ownership of an electric light plant. The committee visited ten cities east and west. In Springfield, Ill., they found the situation already stated in this chapter. Their study of Chicago convinced them that when the city puts its plants into full operation the cost per arc will be reduced to \$60, even with 8-hour labor at good pay. They discovered that Bloomington, Ill., saved enough in five years by public ownership to pay for its plant, etc., etc. They tested the data cited in the Arena articles and finding them correct endorsed my conclusions. They summed up as follows:

"The actual cost of construction will not exceed \$168 per arc for an overhead system of 3,000 arcs in Boston, and your committee are positive that they are not in error in making this statement. The additional cost of real estate will of course depend upon the location, but your committee believe that such locations can be secured as to bring total cost of plant, including land and buildings, not over \$250 per arc.

"Assuming that an estimate of \$250 per arc is correct, the cost to the city of a 3,000-arc plant (600 lights in excess of present needs) would be \$750,000. The interest on the investment, a fair charge for depreciation, and well-paid labor, would in the opinion of your committee, make the total cost not over \$75 per arc, and there would be a net saving to the city of at least \$125,000 per year.

"The City of Boston should not pay more than \$75 per arc per year for its electric lighting, pending the establishment of a municipal electric-light plant."

In reply to a criticism on the report the committee strongly reaffirmed their conclusions and stated that since 1882 Boston had paid the electric light companies \$2,125,000 for services which could have been produced for \$800,000 under public ownership. The report was adopted by the Common Council by a unanimous vote, but it was killed by neglect when it got to the Board of Aldermen.

own account \* \* \* railroads or other means of transit or transportation and methods for the production or transmission of heat, light, electricity, or other power in any of their forms, by pipes, wires, or other means."

A city may issue bonds without debt limit restrictions, if their bonds are for a revenue producing business.

A two-thirds vote of councils and a majority vote of the citizens on a referendum shall be sufficient for the issue of bonds and the assumption of any undertaking from which the city will derive a revenue, but the alienation of city property shall not take place without a four-fifths vote of the councils and such referendum vote as the people may provide for in their charter.

Municipal franchises are to be limited to 21 years.

Public audit of the accounts of companies receiving franchises is to be established.

Cities of more than 25,000 inhabitants to have the right to make their own charters and provide for municipal ownership and operation of public utilities as they see fit.

The recent Social and Political Conference at Buffalo, by practically unanimous vote (only 1 dissent), adopted a resolution for the "Public ownership of public utilities."

We have already spoken of the resolution adopted by the American Federation of Labor in 1896. (See § XX.)

Another symptom of the rapid growth of public sentiment in this direction is the great development of legislation favorable to public ownership. In 1890 no state in the Union had any general law authorizing cities and towns to own and operate lighting plants or street railways, now one state has put such a lighting provision into its constitution and 31 other states have general laws of this kind (Tennessee and Massachusetts being the leaders in 1891), and 5 states have authorized municipal ownership and operation of street railways. See Chap. III for these and other similar indications, and for the new charter of San Francisco, which announces a definite policy of bringing all public utilities under public ownership and operation.

One of the strongest indications of the trend of public opinion is to be found in the concerted movement of street railway interests in various cities from one end of the country to the other to obtain 50 year franchises. The companies see the rising tide of sentiment in favor of municipal ownership,



and in the last few years they have stopped at nothing, however dishonest, that promised a continuation of the enormous powers and profits of their existing franchises.<sup>2</sup>

Perhaps the most definite and striking of all the evidences of the movement of public sentiment on this question thru the power of discussion is contained in the following statement adopted for issue by referendum vote of the N. P. O. League.

### THE RAILROADS OF SWITZERLAND

BY

PROFESSOR FRANK PARSONS.

#### *Rapid Growth and Final Triumph of the Sentiment in Favor of Public Ownership.*

On the 6th of December, 1891, the question of national purchase of the Swiss Central Railroad was submitted to a referendum vote with the following result:

In favor of such purchase.....	130,500
Opposed .....	290,000
	<hr/>
Majority against purchase.....	159,500

On the 20th of February, 1898, the question of national ownership of railroads was again submitted, a referendum being taken on the government purchase of the five main railroad lines of Switzerland (the Jura Simplon, Swiss Northeast, Swiss Central, United Swiss and Gotthard.) The question had been long and bitterly discussed. The arguments pro and con had been thoroughly considered. This second vote was as follows:

In favor of national purchase.....	384,382
Opposed .....	176,511
	<hr/>
Majority for public ownership.....	207,871

Consul General James F. Du Bois, in the report<sup>1</sup> from which these facts are taken, makes some interesting comments. "It will be seen," he says, "that there has been, since 1891, a great change in the minds of the people of Switzerland concerning the Government ownership of railroads and this change has been brought about by a thoro discussion of the subject in the press and on the platform. Never before in the history of the Republic has such a bitter contest been waged, and never before has the Government received such a large majority."

<sup>2</sup> See the strong words of Dr. Albert Shaw in the New York "Independent" for May, 1897, and a part quotation of the same in Municipal Monopolies, pp. 614-5.

<sup>1</sup> St. Gall, Feb. 21st, 1898, U. S. Consular Reports, Vol. 56, p. 584.

"The total cost of construction and equipment of the five main lines (above mentioned) is estimated at \$190,998,000. The total length is 1700 miles, and the Government it is estimated will have to pay for these roads about \$200,000,000. The total receipts in 1897 were \$20,722,600; an average of 5 per cent. dividends has been declared during the past five years. The number of persons employed is about 25,000," or nearly 1 per cent. of the population.

"The election was held yesterday, Sunday, February 20th, and by 8.30 in the evening the general result was known in every town and city in the Republic. The news was given to the people by the government absolutely free of charge, which demonstrated the fact that Switzerland has one of the finest telephone systems in the world. It is owned by the Government and operated in the interest of all the people.<sup>2</sup> \* \* \* The result of the election is being celebrated with great enthusiasm throught the country."

Government ownership in Switzerland is public ownership in fact as well as in name, for the people own and control their government, through the initiative and referendum.

### SUMMARY STATEMENT.

Gathering up the most vital elements of the preceding discussion we obtain the following balance sheet in the account of The People v. The Monopolies.

The companies aim at dividends not service, at financial success not justice, at money not manhood.

Private monopoly has some advantages and many disadvantages. The problem is to keep the advantages and get rid of the disadvantages. The advantages arise from union and the elimination of internal conflict that characterize all monopoly. The disadvantages arise from the antagonism of interest between the owners of a powerful monopoly and the public. The advantages belong to monopoly, the disadvantages to *private* monopoly.

Competition has failed to solve the problem.

Regulation tho a palliative has also failed as a solvent, and must fail because it cannot reach the antagonism of interest which is the root of the difficulty.

The public aims at service, justice and humanity first and profit afterward.

Public ownership of monopoly keeps all the advantages of internal union, and eliminates the disadvantages of private monopoly by making the owners and the public one and the same, thereby removing the antagonism of interest which is the vital cause of the evils of private monopoly.

The referendum and a civil service managed in the public interest, form essential elements in any reliable plan for a real public ownership, for without them we merely go from the private ownership of a group of stockholders to the private ownership of a group of officeholders.

Public ownership so understood keeps the benefits of monopoly, adds new benefits of its own, removes the evils of private monopoly without introducing new evils or difficulties at all comparable with those it removes, wherefore public ownership completely solves the problem.

<sup>2</sup> The ordinary charges are \$8 a year plus 1 cent a call, and the average total payment for the ordinary local service is under \$18 a year for each subscriber throught the country.

*Private Monopoly Tends to*

Excessive rates.  
 Enormous profits for stockholders.  
 High cost in  
 Interest.  
 Dividends.  
 Lawyers fees.  
 Lobby expenses.  
 Corruption funds.  
 Litigation expenses.  
 Advertising and solicitation where the monopoly is not absolute.  
 Insurance.  
 Salaries.  
 Regulation.  
 Legislation.  
 State and municipal care of criminal and defective classes increased by the congestion of wealth due to private monopoly.  
 And wastes by  
 Inferior efficiency of ill-treated labor.  
 Strikes and lockouts.  
 Absence of complete co-ordination which cannot be allowed in the case of private monopolies because of the dangers of large combinations in private hands.  
 Antagonism between owners and the public.  
 Congestion of wealth, devitalizing and demoralizing two considerable portions of the community.  
 Facilities only where the business will "pay."  
 Small traffic because of high charges, inadequate facilities, and the relative dislike of the people to patronize a private corporation.  
 Discrimination in rates, service, investment and ownership (companies have been known to refuse to sell stock to ordinary persons because they desired all their stock to be in the hands of "influential" persons.)  
 Disregard of public safety.  
 Poor service.  
 False accounting.  
 Watered stock and over-capitalization.  
 Speculation and gambling.  
 Fraud and corruption.  
 Defiance of law.  
 Discouragement of good men because of the filthy condition of politics, largely due to the influence of private monopoly.  
 Civic inertia, disgust, despair and neglect.  
 Destruction of good citizenship.  
 Official demoralization.  
 Annihilation of honest government.  
 Unfair treatment of employees.  
 Strikes and lockouts.  
 Social cleavage.  
 Congestion of wealth, power and benefits.  
 Assets for the companies.  
 Wealth for the few.  
 Millionaires and tramps.  
 Beauty for a few. Ugly buildings, ugly streets, ugly surroundings for the mass.  
 Selfishness and hardened conscience.  
 Debasement of human nature.

*Public Ownership Tends to*

Moderate rates.  
 Service at cost or profits for the public treasury.  
 Low cost, or economy in  
 Interest.  
 Dividends.  
 Lawyers fees.  
 Lobby expenses.  
 Corruption funds.  
 Litigation.  
 Advertising.  
 Insurance.  
 Salaries.  
 Expenses of regulation and investigation.  
 Expenses of legislation relating to monopolies.  
 Expenses attendant upon defective classes.  
 And savings by  
 Superior efficiency of well-tested labor.  
 Absence of strikes and lockouts.  
 Co-ordination of industries.  
 Increased interest of the people.  
 Better diffusion of wealth securing a larger total of education, intelligence and energy in the community.  
 Elimination of antagonism and conflict.  
 Putting profits in the public treasury.  
 Public ownership, moreover, can be secured without a dollar of public debt or taxation. (See Method.)  
 Enlargement and extension of facilities.  
 Increase of business.  
 Impartiality in the treatment of customers.  
 Safety for public and employees.  
 Better service.  
 Honest accounts.  
 No watered stock and fair capitalization.  
 Diminished speculation and gambling.  
 Lessened fraud and corruption.  
 Obedience to law.  
 Increased inducement to good and able men to take part in politics.  
 Awakened interest in public affairs among the people as a whole.  
 Better citizenship.  
 Civil service reform.  
 Better government.  
 Better treatment of labor.  
 Abolition of strikes and lockouts.  
 Social strength.  
 Diffusion of benefit.  
 Assets for the people.  
 Wealth for all.  
 General competence.  
 Aesthetic development.  
 Moral improvement.  
 Manhood.

Too much liberty for a few; none for the many.  
Special privileges for some.  
Aristocracy. Denial of Democracy and self-government.  
Antagonism.  
Conflict.

Non progressiveness, economically and socially.  
Private monopoly means taxation without representation, and for private purposes.

Private monopoly is contrary to the principles underlying free government; it is undemocratic, anti-republican, and anti-Christian; it is a violation of the settled principles of justice, and of the common law and a breach of the supreme law of love and brotherhood.

Experience serves but to emphasize its evils and prove the hopelessness of efforts at regulation or prohibition.

Its evils increase with the ever accelerating aggregation of capital, and the concentration of power.

The question lies between  
*the despotic dollar* on one side, and

Liberty for all.

Equal rights for all.  
Democracy and self-government.

Harmony.  
Co-operation.  
Economic and social advancement.

Public ownership leaves the power of taxation (for public purposes) in the people and their representatives, where it belongs.

Public ownership and co-operation in all its forms are in accord with the fundamental principles of free government, and with conscience, Christianity and the laws of love and brotherhood.

Experience proves its beneficent effects.

Analogy favors its extension.

Its growth is phenomenal.

The drift of the age is in its direction.

The current of history sets that way.  
The trend of thought, the weight of authority, and the movement of events, are all in its favor.

thought, manhood, democracy, brotherhood and progress on the other.

*Which will you help to win?*

## OBJECTORS AND OBJECTIONS.<sup>1</sup>

1. The leading objection to public ownership is the "*danger of increased patronage and the spoils system*, whereby the public ownership of monopolies becomes a source of corruption in politics." It is true that the spoils system in municipal business is a serious evil, but the remedy is not to close the door to public ownership but to open it wide. The spoils system itself is nothing but private ownership of the government; the treating of public office as private property. Establish full public ownership of the government as well as of other municipal monopolies and there will be no danger from patronage. And the best of it is that public ownership of industrial monopolies tends to force governmental reform and so eliminate the only serious objection made to it. (See Section XVII.) Even if this were not true, however, the political evils of the patronage are utterly insignificant compared to the political evils produced by the private monopolies (Sections 8, 9, XIV), so that at the very worst public ownership would

<sup>1</sup> See Appendix II, M.

result in *less* corruption than private ownership in the case of monopolies. The corporations buy up our councils and corrupt our legislators, and when we demand the abolition of these very corporations that produce the difficulty, they say, "You'll have a terrible time if you get rid of us, see how rotten your government is." Of course you see how greatly the destruction of the corruptors will increase corruption. Don't take away the evil companions who are undermining the morals of your boy, making him wild and dissipated and more anxious about money than conscience and the public good,—you will stand no better chance to correct his habits when they are gone, he'll go to the dogs all the more when the strongest influence that makes him go to the dogs is removed.

As Mr. Baker says it is easier to stop thieving and rascality by a common council, than by a water, gas, or street railway corporation. The people are roused more than by the hidden private fraud and the councilmen are more readily turned out or controlled than the owners of the private corporation.

Experience shows that, as a rule, no political difficulties have arisen in the administration of public plants for the supply of water, gas, electric light, etc.<sup>1</sup> Probably the most thoro study under this head has been made by Prof. Bemis in his investigations of municipal gas works. In 1891 he found great steadiness in the employment of superintendents and engineers. In Richmond "the same man had been superintendent since 1886, and before that was assistant superintendent from 1870 to 1886, and he came to the works in 1865." "Bellefontaine is free from the spoils system in her gas department." The same man "has been city engineer and superintendent of the gas works in Danville for 16 years. Superintendent T. J. Williams has been in charge in Charlottesville since 1855. Hamilton starts out with a similar laudable purpose of keeping the gas department out of politics. The present trustees and superintendent are Democrats, and the assistant superintendent and the foreman of the service gang are Republicans."<sup>2</sup>

Summing up the professor says, *Municipal Gas*, p. 82:

"We therefore find that six of the nine cities are entirely free from political influence, and that two others, Philadelphia and Richmond can only be charged with employing a few more men than necessary, for the sake, possibly, of giving employment to political friends, though this is charged, not proven. In Wheeling

<sup>1</sup> See chapters on Water, Electric Light and Gas, in "Municipal Monopolies," especially pp. 610, 612, 619-20.

<sup>2</sup> *Municipal Gas*, pp. 77, 81.



we find conflicting accounts, but do know that the financial results are fine, and that whatever connection the works may have with politics does not produce much injury, and is diminishing."

And on p. 136:

"The occasional change of some of the employees of gas works in public hands for political reasons, an evil which does not exist at all in many public gas works and which is decreasing, as our investigation proves, in all the others, is nothing in comparison with the corruption now existing in a large proportion of the cities where gas works are in private hands."

In 1898 Prof. Bemis has again investigated the public gas works. After speaking in detail of Richmond, Fredericksburg, Alexandria, Charlottesville and Danville, all the Virginia plants, he says: "In none of these Virginia cities has the spoils system had any apparent influence."<sup>1</sup> On p. 619 he says that "political influences do not appear to enter into the management of either of the Massachusetts (public) plants." He found the common labor subject to change for political reasons in Wheeling, but in spite of this "the results on the whole seem to fully justify the almost unanimous belief in public ownership and operation which has always appeared to exist there and in other cities owning their gas plants" (p. 613). Summing up again on pp. 619-20, the Professor says:

"The influence of the spoils system in some cities does not appear to have anything like the demoralizing influence on the city government that is produced by the efforts of private companies elsewhere to secure valuable franchises."

The American Federation of Labor puts the whole matter in a nut shell in the resolution, part of which has been already cited:

"Whereas, The influences of corporations holding or seeking to obtain possession of public franchises are among the most potent influences antagonistic to reformative measures, and the most active cause of corruption in politics and of mismanagement and extravagance in public administration; therefore, be it

"Resolved, That the sixteenth annual convention of the American Federation of Labor urges upon all the members of affiliated bodies that they use every possible effort to assist in the substitution in all public utilities—municipal, state and national—that are in the nature of monopolies, of public ownership for corporate and private control."

2. "*Paternalism*," says a second objector, "public ownership is paternalism." That is almost correct. There is only a slight mistake in the first syllable. Public ownership is not *paternalism* but *fraternalism*. When somebody else manages the business for you, that is paternalism; but when you get together and run the thing yourselves or by agents under your

<sup>1</sup> Municipal Monopolies, p. 612.

control and direction, then it is fraternalism. A street railway service owned and managed by a private corporation is paternalism so far as the city is concerned. But a street railway service owned and managed by the city is fraternalism.

3. "*Socialism*," says a gentleman in a silk hat and a gold headed cane, who doesn't know what socialism is, but nevertheless speaks of it in tones full of calamity, or the prophecy of calamity, more dire than any recorded outside of Milton's *Paradise Lost* or Dante's *Inferno*. "Public ownership of monopolies is socialism." If so the post office is socialism, and the public roads and parks, hospitals, cemeteries, water works, etc. The truth is, however, that the public ownership of monopolies is no more socialism, than the Mississippi Valley is the continent, or the eating a piece of bread is the swallowing of a whole loaf. Socialism means "the common ownership of the means of production and distribution." The common ownership of water, gas and electric works, street railways, telephones and other monopolies is no more socialism than Chestnut street is Philadelphia. "Well, at any rate, the public ownership of monopolies is socialistic, it is in the direction of socialism." Post office, public roads, public schools, etc., ditto. The public ownership of monopolies may be socialistic, or may not be, according to intent. A journey from New York to Chicago may be San Franciscoistic if the traveller intends to go the rest of the way, but not if he intends to stop in Chicago. "But suppose all sorts of business become monopolies as they bid fair to do with the growth of trusts, then surely the public ownership of monopolies will mean socialism." Any business which does become a monopoly and continues such after the monopolies of land and transportation have become public, and which relates not to a mere luxury, but to a public utility, and which manifests the evil tendencies found to accompany existing monopolies, *should* be taken by the public and managed in the public interest, whatever name may be applied to such taking by those who fling scare-words instead of discussing the case on its merits.

4. "*Liberty will be less*," says one who calls himself an

*"Individualist."* Very likely those who now own the monopolies will be deprived of some of the "liberty" they now possess to tax the people, issue watered stock, corrupt our legislators, etc. But the workers and the mass of the people generally will have more liberty than now, for they will have the liberty of managing these vast business interests for the public good, and of keeping their money till they get an equivalent for it.

There is no quarrel between true individualism and the co-operative philosophy. The savage individualist of the primeval forest has of course no use for government or co-operation of any sort. But the developed individualist of a highly civilized society is naturally co-operative to a large degree in his conduct and thought, no matter what sort of nonsense he may talk. Primitive individualism expresses itself in absolute independence; ennobled individualism just as naturally expresses itself in co-operation and mutual help; and the noblest individualism would necessarily express itself in complete mutualism or universal co-operation. Men whose hearts were filled with brother love could not be private monopolists. Brotherhood would spontaneously banish private monopoly.

We are all individualists whether our individualism be of the antagonistic or the co-operative order. And even the most strenuous defender of the antagonistic individualistic idea lives in a net work of the public co-operations his philosophy condemns. As Sidney Webb says:

"The Individualist City Councillor will walk along the municipal pavement, lit by municipal gas and cleaned by municipal brooms, with municipal water, and seeing by the municipal clock in the municipal market, that he is too early to meet his children coming from the municipal school, hard by the county lunatic asylum and municipal hospital, will use the national telegraph system to tell them not to walk through the municipal park, but to come by the municipal tramway, to meet him in the municipal reading room, by the municipal art gallery, museum and library, where he intends to consult some of the national publications, in order to prepare his next speech in the municipal town hall, in favor of the municipal-

ization of gas and the increase of the government control over the telephone system."

How far this has gone may be seen from the fact that Vrooman's "Public Ownership" gives a classified list of 337 socialized businesses, enterprises, and institutions, together with 225 businesses, enterprises, institutions and events, controlled in some degree by Governments, making 562 types of human effort that the people (of various countries) have already reclaimed from absolute individual management.

5. "*It is not the government's business to own and operate water works, gas plants, street railways and telephones. It should confine itself to keeping order,*" says a devotee of the Spencerian theory of government. X It seems to me it is the government's business to do anything it can do for the public good that the people want it to do. The government is simply the hand of the people, to accomplish any purpose the people command it to. Herbert Spencer's policeman theory of government would abolish the public post, the public schools and libraries, the public roads and bridges, and the public water works and fire departments as well as the public railways, and Spencer accepts these consequences and affirms that all these things should be left to private effort. Great as he is in many ways, I think he has failed to catch the truth that *service* is as true a function of government as *restraint*.<sup>1</sup>

6. "*Vested interests must be respected,*" says a stockholder. "It is not fair to take away my opportunity to make a living." Your opportunity to have some one else make a living for you, would be more accurate, would it not? But we will waive that point. All private interests have to yield to the public good. *Salus populi suprema lex*. When the public needs a man, it may take even his life; shall it have less power over his property? There is nothing sacred about "vested interests." We will pay you the value of the property that is rightfully yours and you can invest the proceeds and still re-

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<sup>1</sup> See "The Functions of Government" in *The Industrialist*, Jan. to June, 1897, in which I have shown the fallacy of Spencer's theory of government from his own principles and admissions.

tain your "vested interest," merely changing its form or location for the benefit of the community.

Private monopolistic business has rarely, if ever, in all its history, left one stone unturned in its determined effort to ruin or drive out of business all others in the same field. And in many cases it has paid itself over and over again for all the investment it really made.

7. *"Towns and cities will be extravagant and go into debt for public works."* It is easy enough to stop that by a statutory debt limit, which indeed already exists in nearly all the states. It is not necessary to go into debt in order to secure public ownership, not one dollar of either debt or taxation is necessary. (See section on Method above.) But suppose cities and towns should be extravagant, are they not of age? And will you advocate tying their hands and telling them what they may do and what they may not do with their own money and credit in their own affairs? Are you not the same gentleman who objected a moment ago to any sort of paternalism?

In a witty speech at the State House in Boston, before the legislative committee that was considering the bill of 1897, permitting cities and towns to own and operate street railways, Col. Thos. Wentworth Higginson recalled the fact that fifty years before, when public water works were as scarce in Massachusetts as public railways are now, and progressive men were coming to the State House year after year to ask the legislature to grant permission for the municipalization of the water supply, the very same objections had been raised that are brought forward now against municipal ownership of the railways. He remembered it had been said that the additional patronage would be dangerous, that the public water-works would be a source of corruption in politics, that towns and cities would be extravagant and go heavily in debt for water, that it was aside from the proper sphere of government to manage such business enterprises, etc. Yet the fear of evil consequences had proved to be groundless; experience had demonstrated the benefits of public water-works, and the right of cities and towns to municipalize the water supply is firmly established in our law. Col. Higginson's address was specially



amusing, as several of the time-honored objections he spoke of had been raised by members of the Railway Committee of the House a few moments before he addressed them.

8. "*Private initiative will be lost by public ownership.*" On the contrary it will probably have freer play under public ownership than under private monopoly. It is only in competitive business that the superiority of private initiative manifests itself, and the wastes and antagonisms that accompany it go far toward cancelling its benefits even there. When a private monopoly holds the field free initiative is hedged within narrower limits than under any other form of industry. (Section XXVI.)

9. "*Public ownership is non-progressive.* See how far the public railways of Europe lag behind our private railways." The inference is unfair; it is not public ownership, but Europe that is non-progressive. Many enterprises in Europe that have no connection with public ownership are less developed than in America, e. g., elevators, banks, hotels, labor saving machinery of all kinds, etc. The railroads of Great Britain are private, but they are far behind ours. Even the convenience, almost necessity, we should consider it, of a baggage check is practically unknown in England, and the passenger has to look after his baggage as best he can. The European passenger is *locked* in an apartment in the car and can't get out till the man with the key lets him out. In America Philadelphia is considered so slow that when a New York actor asked a young lady where her mother was, and she replied "In Philadelphia," the actor said, "Oh, well, don't wake her up." Yet Philadelphia is too much for England in competition, even in the heart of England's empire in Egypt. The bridge across the Atbara river, a thousand miles south of Cairo on the line of the railroad that will run from Cairo to the Cape, has been built by Philadelphia bridge builders, in competition with the leading establishments of England. The English builders asked for two years time—one year to prepare the material and another year to erect the bridge; and they wanted \$67,750 for the completed work. The Philadelphia house promised

the material in six weeks, the finished bridge in six months, the whole cost to be \$28,000. They got the contract, they have kept their promises, and the most rigid inspection pronounces the materials and the structure all that can be desired. There were some insinuations that the Americans got the contract by bribery and the corrupt use of money; but Lord Comer, the head of the English political authority in Egypt, and Lord Kitchener, the Commander-in-Chief of the Egyptian Army, have silenced all such stories by stating the facts. In opening the bridge Lord Kitchener said: "The construction of this magnificent bridge, I think may fairly be considered a record achievement. \* \* \* As Englishmen failed, I am delighted that our cousins across the Atlantic stepped in. This bridge is due to their energy, ability, and power to turn out works of magnitude in less time than anybody else. I congratulate the Americans on their success in the erection of a bridge in the heart of Africa. They have shown real grit far from home, in the hottest month of the year, and depending upon the labor of foreigners."

When public enterprise in Europe is compared with private enterprise in Europe, or when a comparison is made between public and private monopoly in this country the record for progressiveness is with the public monopoly, and in the case of the telegraph and telephone the public plants of Europe are in a number of cases ahead of our private systems.<sup>1</sup>

10. "*Public ownership is inefficient.*" Efficiency is largely a matter of the personal equation. Some public plants are ill-managed and some are well managed, and the same is true of private plants. The evidence indicates that on the average public plants are quite as well if not better managed than private monopolies. (See last section and references there given,

<sup>1</sup> See sections 1, 5, 12, I, X, and XXVI, and the parts on Experience and Method. In a paper read at a meeting of the Amer. Gas Light Assoc. by Mr. E. G. Cowdery, the author says there is great need for better management of the private gas works. "The gas business," he says, "and progress in it has been greatly retarded by methods, which are not sound in principle, but greatly speculative in their nature." (*Progressive Age*, Nov. 1, 1890.) Prof. Bemis says, "Private gas companies with an assured monopoly, often feel less impelled to make improvements than public companies controlled by the voters, whose demands for cheap light, etc., can be brought to bear upon their own agents far more easily than upon private companies." *Municipal Gas*, p. 132, see also p. 118.)

especially noting the splendid facts of Section I.) Mr. H. A. Foster, who opposes municipal ownership and defends the private electric companies in the *Electrical Engineer* of September 5, 1894, nevertheless frankly says that "In all fairness it may be said that the much-vaunted better management in private hands does not exist. In fact, the men in charge of city plants compare quite favorably with those in charge of private plants of similar size." He also admits that public plants are commonly bought or constructed as cheaply as private, and speaking of the correspondence by which the *Electrical Engineer* obtained the data it engaged Mr. Foster to analyze and write up, he says:

"The tone of all communications from those favoring the municipal side seems to have taken it for granted that the results shown would tell that side sufficiently well; and it must be admitted that in quite a number of cases, such is the fact." Remembering that Mr. Foster is an electrical expert and accountant of high standing, who was employed on the census of 1890, and is one of the ablest of those who have written in opposition to public ownership, the above admissions would seem to close the case on this point.<sup>1</sup>

11. *"Public ownership is less economical than private."* This is the point Mr. Foster attempts to make. Even if it were admitted little would be gained against the overwhelming mass of reasons for public ownership, many of which vastly outweigh any mere matter of dollars and cents. Moreover, if it were admitted that private operation is more economical than public, the question would immediately follow, "Who gets the benefit of the economy?" Would it be wise for the people to forego the benefits of better service, purer government, better diffusion of wealth, better treatment of labor, etc., for the sake of an economy that would merely put more dollars in the already overloaded pockets of a few monopolists? But

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<sup>1</sup>The 13th annual report of the Kansas Labor Bureau discloses a condition of inefficiency in private gas plants which Prof. Bemis says is "worse than has been discovered in any of the public plants." One large plant (p. 93 of the Rep.) admits a loss by leakage and condensation of 25 per cent. of its output of 42 million feet. Another with over 5 million feet reports a loss of 21.2 per cent.; while another does not keep any account of leakage; and still another has no station meter to determine the amount of gas made at the works. (Munic. Monopolies, p. 620.)

as a matter of fact there is no such superior economy in private monopoly; the superior economy, as we have abundantly shown, is with public ownership. (Sections 1, 2, I, II, III, IV, XXI.)

Mr. Foster reaches his result by averaging the lamp hour costs in anomolous groups of plants and allowing  $13\frac{1}{2}$  per cent. on the whole cost of the plant up to date for fixed charges in the public works (6 per cent. interest,  $7\frac{1}{2}$  per cent. for depreciation). The overwhelming weight of expert opinion is that  $7\frac{1}{2}$  per cent. is altogether too high for depreciation.<sup>1</sup> The managers of private electric lighting plants when estimating depreciation rarely place it above 3 per cent. From 1890 to 1897, inclusive, the amounts written off by the Massachusetts companies average less than 2 per cent.<sup>2</sup>

But the doubling of the depreciation and more is nothing compared to the estimating of depreciation on the *whole cost of the plant down to date*, with no deductions for depreciation in former years. If the plant cost \$200 per arc,  $7\frac{1}{2}$  per cent. depreciation would be \$15, and the next year the value of the plant on which the new depreciation charge should be estimated would be only \$185, and the depreciation \$13.88; the fifth year the value per arc would be \$146.42 and the depreciation only \$10.96, and so on, but Mr. Foster does not make these subtractions, and so in another way unduly inflates the fixed charges in public plants. It may do for the superintendents of public plants to neglect the deductions of depreciation, for in many cases the showing is sufficiently remarkable without reference to this matter, but it will not do for the opponents of public ownership to disregard such deductions, especially when they insist on such a high rate of depreciation as  $7\frac{1}{2}$  per cent. Six per cent. interest is also too high for municipal plants, as Mr. Foster has himself admitted since his article was written. Moreover, 3 of the 14 municipal plants used by Mr. Foster are so exceptional as to be entirely out of place in an average: Alameda, Cal., where, as he says himself, the cost is so high as to "throw doubt on the accuracy of the figures;" Fairfield, Ia., a diminutive plant, with only 14 arcs then, and Anderson, Ind., using natural gas—two cities with exceptionally high costs and one with exceptionally low cost. Further, the lamp-hour or candle-power cost is not a fair test unless the conditions as to price of coal, hours of burning, etc., are similar in the cases compared, or the difference is fully allowed for, which is not the fact in Mr. Foster's comparisons. If two plants are equal in every way except that one runs all night and the other only till midnight, the cost per lamp-hour or candle-power, will be considerably less in the all-night plant. The longer load lessens the cost

<sup>1</sup> See chapters on Electric Light by Profs. Commons and Beins, in *Municipal Monopolies* and facts and authorities cited in my *Arena* articles of 1895.

<sup>2</sup> *Municipal Monopolies*, p. 207.

per hour in the same plant with the same management and equal economy in every respect. If the cost per candle-power were the same in the two cases, the all-night lamp would cost twice as much as the midnight lamp, whereas, in fact, the difference is only one-fifth, so that an all-night plant that charges the same per candle-power as a midnight plant, is charging a great deal too much if the midnight charge is a proper one and other things are equal. Similar considerations invalidate inferences against public street plants by comparing them with private commercial plants without allowance for differences of condition. Even this is not all. Mr. Foster estimates (as he tells us he had to since they were not reported) the watt hours per lamp for all commercial arcs and incandescents, and for nearly half the street lamps; he says he has not much confidence in his estimates, as to said hours, in which we cordially agree with him, said estimates being vague guesses, apparently based on the principle that lamps of a given candle-power are run the same number of hours in all places. After this he proceeds to calculate the cost per kilowatt hour and per lamp hour, covering a 7x10 page of the *Electrical Engineer* with three and four-place decimals to complete the operation. Being based on hours of burning guessed at in 2-3 of the cases and on fixed charges out of all bounds, it is easy to see how much more convenient it will be to use these lamp-hour rates as a basis of comparison with the charges of private companies instead of comparing the cost of a standard arc per year in a public plant with the cost of a standard arc per year in a private plant under similar conditions of production, as an unscientific person would be apt to do rather than spend a couple of weeks writing down guesses at schedules and ciphering out mysterious and irresponsible hour rates to four places of decimals, so as to forget that the said hour rates are based on guesses, and proceed to draw inferences from them that never could be obtained from the simple, undifferentiated, unmythified, unsophisticated cost per arc per year. The public plants included in Mr. Foster's investigation, are in every part of the country, from Maine to California, under all sorts of conditions as to output and length of run, cost of labor and power, but Mr. Foster says nothing about said relations of cost (except the general remark that in more than half of these places a private plant could probably not be made to pay), and selects a lot of places in New York state, nestling near the coal fields, pairs them off by population with the same public plants—underground system against overhead, little street plants against commercial plants, stations with tremendous investment (\$473 per arc in the case of Alameda, Cal., which counts pretty fast at 13½ per cent.) and \$5 or \$6 coal against stations with low investment and \$2 coal; and then without making any allowance for differences of condition, sums up his groups, takes the average on each side and announces that "The result is somewhat surprising, as there is a difference of 20 per cent in favor of the private companies."

Finally, if the three manifestly unjust comparisons be omitted and reasonable rates for interest and depreciation be taken, the re-



sults of Mr. Foster's own tables are favorable to municipal ownership by 22 per cent.,<sup>1</sup> in spite of his reckless guessing at hours and special selection of private plants, which was probably not done by the electrical engineer or Mr. Foster with any intent to color the truth, but because the data respecting the New York works were easily attainable.

12. "*The frequent failure of public ownership shows it is not successful.*" This is in substance the point made by M. J. Francisco, who gives the names of 22 places that he says have become dissatisfied with their electric lighting plants and sold them. Prof. Bemis wrote to each of the municipalities named by Francisco, and got 18 replies.<sup>1</sup> One of the places never owned a public electric plant. Seven others still own their plants and are satisfied with them. One merely took a failing private plant temporarily till a new company could be got to run it. One plant burned and the city was too heavily involved at the time to put in a new one. One city sold its plant, not because of dissatisfaction at all, but because it had not the means to reconstruct it. In another case the plant was constructed for a village: the place now has 40,000 inhabitants; the introduction of cheap water power is expected soon, and while waiting for this the city is buying light temporarily of a railway company which has surplus power. In 5 cases the plant *was* sold; two of them being plants that failed both in public and private hands; the cause in the third case unknown; in the fourth and fifth cases plants entirely satisfactory to the people were sold thru corporate intrigue and influence in councils; these were the cases of Michigan city and East Portland, already mentioned in Section 8. Only two *failures* in the whole lot so far discovered, and one case of sale with the cause not stated, and both the failing plants were failures also under private management.

Even if all the plants cited by Francisco had really failed it would prove nothing; 22 failures out of three or four hundred public electric plants would not be alarming. The real failures cannot be more than 3 per cent. on the evidence before us, even supposing all cases not heard from were failures. The failures in private

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<sup>1</sup> See p. 94, Arena for Sept., 1895, and pp. 134-139 of "Municipal Monopolies."

<sup>1</sup> Prof. Bemis says 18, but only gives the results in 17 cases. See the details in full in Municipal Monopolies, pp. 218-21.

business are said to be 95 per cent., but this includes competitive as well as monopolistic business. I have not been able to obtain an estimate of the failures of private electric light plants.

M. J. Francisco is the author of "Municipal Ownership; Its Fallacy." He is attorney for an electric light company, and has been president of the National Electric Light Association. He is or was at the head of an electric company in Rutland, Vt., which the Ægis investigators of Wisconsin University say was charging \$280 per arc in 1893 when Allegheny was making light at a total cost of \$83 per arc, equivalent, perhaps, to \$100 under Rutland conditions. Francisco's pamphlet is simply an attorney's brief, and not a truthful brief, either.

Mr. Johnston, of the Ægis, consulted Chicago's chief of construction and other officers in reference to Francisco's statements about that city, with the following result: "In this pamphlet Francisco says that part of the operating expenses are charged to the police and fire departments. Mr. Carrol says not one cent is so charged.." (Indeed Francisco must have thought the officers of fire and police were sleepy gentlemen to allow such accounting—they wish, like other officers, to make as good a showing as possible for their own departments.) "Francisco figures linemen's salaries at \$2500. There is not a lineman employed by the city; all the wires are underground. The cost of coal per lamp is given by Francisco at \$40, while the real cost is but \$27, and in nearly every calculation Francisco has juggled with the facts in order to prove his theory."

Francisco uses the lamp hour and candle power test with reckless disregard of conditions. In one case he reaches his result by assuming that 2,175 incandescents of an average of 27 candle power, are equivalent to 48 arcs of 1200 candle power, whereas in reality they are equivalent to about 524 such arcs in cost of operation.<sup>1</sup> By such means he arrives at very erroneous conclusions respecting the cost in plants. We do not need to waste further time with Francisco; Professor Commons found his statements "utterly untrustworthy."<sup>2</sup> Prof. Bemis and the Ægis investigators had the same experience, and anyone who will compare pp. 82-3 of Francisco's pamphlet with Vol. 3, n. 3, Amer. Statis. Assoc. Pubs., p. 302-3, will doubt whether the quoted words are strong enough to cover some of Francisco's statements. Francisco cites Victor Rosewater as saying in a given article precisely the contrary of what Victor Rosewater really said in that article.<sup>3</sup> Francisco also quotes approvingly the

<sup>1</sup> Municipal Monopolies, pp. 224-5.

<sup>2</sup> Ibid. p. 95.

<sup>3</sup> On Francisco's pages 82 and 83, we find:

"An honest opinion by a former advocate of municipal ownership." "Soon after the first paper on municipal ownership was read at Cape May, Victor Rosewater published an article in the New York Independent claiming that municipalities could and did furnish the lights at less expense than private companies. \* \* Mr. Rosewater afterward discovered that the reports of municipal plants, which had been furnished by the advocates of municipal ownership, were not reliable. He frankly and honestly confessed his error in an article published by the Amer. Statistical Assoc. \* \* The result is, in Mr. Rosewater's opinion, that there is no possibility of making definite comparisons."

This is simple straightforward lying. Victor Rosewater did not say that

impartial Mr. Cowling and the packed committee of Philadelphia already referred to, also the report of the Massachusetts gas committee written by the attorney of the Bay State Gas Co., and following the worst corporation style with such marked success that it is known to-day as one of the purest examples of misstatement and fallacy to be found in the English language.\*

There are a few other statements, however, that are entitled to consideration before a prize is awarded. For example the pamphlet handed to Massachusetts legislators in 1897, entitled a "Comparison of Street Railway Conditions and Methods in Europe and the United States," by P. F. Sullivan, a street railway official (general manager) from Lowell. It would be amusing to spend a half hour with this pamphlet, but one or two samples must suffice. On page 6 we find that "*In all cities in the United Kingdom other than Glasgow 2 cents is the minimum fare.*" On page 18: "The tendency is quite the other way, as witness the adoption of one cent fares for a half-mile ride in Glasgow and London." On page 13 we read that "The West End Co. averaged for the fiscal year ending Sep-

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he had found the reports of municipalities unreliable. He made no such confession, nor did he say that definite comparisons were not possible. On the contrary he distinctly affirms in the very article referred to that specific comparisons are valid when carefully made. (Amer. Statis. Assoc., vol. 3, U. S. p. 302-3.) What he does "confess" is that in the Independent article he made the *mistake of comparing averages made up from imperfectly classified lists of rates*. That is the only "error" he confesses. He gives the Statistical Association page after page of municipal returns, so that he could scarcely have thought them unreliable. He expressly declares specific comparisons with due allowance for differences of condition to be good, but opposes the comparison of averages as usually made.

On page 300, Victor Rosewater says, "The cost per hour is utterly worthless for any scientific use," and condemns the practice of comparing one plant with another (with different conditions as to run, etc.) by means of the lamp hour cost, as being entirely unreliable. Yet this is precisely the method adopted by Francisco all the way through his book.

\* During the struggle in Massachusetts to secure a law permitting cities and towns to own and operate gas and electric plants, a committee of the State Senate visited three cities that had public gas plants: Richmond, Alexandria, and Philadelphia. Mr. M. S. Greenough, attorney for the Bay State Gas Company of Boston accompanied the committee, did most of the "investigating" and wrote the report made to the senate in April, 1890. In writing of Richmond the attorney included the cost of all extensions and permanent improvements in the operating expenses and made various other "mistakes," giving a false view of the Richmond situation (Prof. Bemis' Municipal Gas, pp. 87-8). The misstatements and omissions in the account of the Philadelphia works were so serious that Superintendent Wagner of the Philadelphia gas works wrote, "I am sure you will excuse me for entering into a controversy with gentlemen who have not even the common honesty of correct quotations in the reports they submit as the result of their investigations." (Munic. Gas, p. 12.)

On behalf of the petitioners I had the pleasure of replying to the gaseous arguments of counsel at the State House on the municipal lighting bill (see verbatim reports in Boston Commonwealth March 29, and April 5, 1890), and in closing said in substance, "Brushing away the sophistry of the corporation counsel the whole substance of the issue is seen to be this: On one side the companies do not wish to lose their franchises, i. e., their existing chances of making profit on their investment beyond what they could make with the same capital in an employment unprotected by a monopoly, and on the other side the interests of the people require that public franchises and enterprises outside the sphere of competition should not be given over to private control for private gain, and the building of fortunes beyond equivalence for the service rendered. It is the people vs. the companies, public good vs. private interest. That is the plain issue. Thousands of solid citizens petition for the law. One manufacturer of gas machinery, two gas companies and one electric trust are all the remonstrants. The legislature is the agent of the people, not of the companies, and it is always the duty of an agent to forward the interests of his principal, when acting in his business."

tember 30, 1896, to carry fewer than seven persons per car mile. *How then can we account for the thirty or forty persons that we see so frequently upon one of that company's cars?* It means that if you divide 30 or 40 by 7, they averaged to ride  $4 \frac{2}{7}$  or  $5 \frac{5}{7}$  miles." We might with equally potent logic and profound philosophy ask, "How can we account for the 3 or 4 persons we so frequently see on one of the cars? or the 10 or 12 persons, or the 70 or 80 persons, we so frequently see on one of that company's cars." Aristotle, Whately and Mill were slow compared to Sullivan. You couldn't prove anything and everything by their logic. But you can fix on any average ride you desire and prove it by Sullivan's logic just as conclusively as he proves this and the rest of his—well, "arguments," we may call them by courtesy.

In dealing with discussions of municipal ownership and other progressive movements it is important to remember that while any writer may make mistakes whatever his point of view, yet the *motives* of those who oppose public ownership are usually very much inferior to the motives of those who advocate it. Those who oppose public ownership usually do so from motives of self-interest of a low type, or from the bias of conservative training resisting change and new ideas by instinct and reflex action, or from both these motives; while those who advocate public ownership generally do so from a conviction that it will be for the good of the community—a conviction reached in many cases after long, earnest, painstaking study that has overcome preconceived opinions to the contrary. Such advocacy, moreover, is frequently opposed to the selfish interests of the advocate, and made at serious loss and inconvenience.

Two instances frequently cited as failures of public ownership must be mentioned under this twelfth head; I refer to the Philadelphia gas works and the Chicago electric light plant.

The Philadelphia gas works have never been really and completely public. When councils took possession of the works in 1841 they were put in the hands of trustees, who became, under the rulings of the courts, the agents of the bondholders and absolute masters of the situation as against the city until the bonds were paid. The control of this board of trustees was emphatically private ownership, and became one of the most corrupt in history.<sup>1</sup> By combination with private street railway interests the gas trust became very powerful as well as corrupt, and practically owned the city government instead of the city government's owning the gas works. It was not until 1887 that the government was really able to control the works, and even that change did not make the plant really public, for the people do not own the government in Phila-

<sup>1</sup> See Bryce's "American Commonwealth," and appendix to "Municipal Gas."



delphia as is clearly shown by the refusal of councils to submit the question of leasing the works to a vote of the people. Since water gas came into fashion a considerable part of the gas supplied to the city has been bought of a private company instead of fitting the city works to make their own water gas. This private company gas cost the city a good deal more than it would have cost if it had been made by the city. Moreover, the keeping of a private interest in the gas business created a specially disturbing influence always seeking to control councils and get possession of the whole business. Councils refused to make appropriations for needed improvements and repairs and did all in their power to discredit the works so as to justify a sale or lease. And yet in spite of all these difficulties the financial record of this quasi-public plant is good. Before the lease the plant had paid for itself out of net earnings, and had furnished cheaper gas during nearly all of its history than had the private works of New York, Baltimore, and Washington. In 1894 the Quaker City had done what the Standard Oil, Gould, and Sage interests insisted before the New York Legislature in 1897 could not be done without ruin, viz., reduced the price of gas to \$1. Yet the works continued to pay operating expenses and depreciation charges besides furnishing nearly 700,000,000 feet of free gas to the city each year, worth at the current rate, \$700,000, or fully 7 per cent. on the structural value of the plant.

The works are not leased for the financial good of the city, for the city could have secured lower prices and more profits by keeping the works than are provided for by the lease, as Prof. Bemis has shown.<sup>1</sup> The works were not even leased to the highest bidders, as competing companies made much better offers than the United Gas Improvement Company. The lease was a private business transaction of the class in which an agent sells out his principal's property and business to a corporation in which the said agent has an interest, or from which he has received a consideration. If it had been provided, as in Richmond, that no sale or lease of the works could be made without consent of the people, the plant would still be in the city's hands, and the intrigues to capture it would probably never have been entered upon. If the people had possessed the initiative upon city ordinances they would long ago have ordered the repairs and improvements asked for by this department, and by the water department, and both the plants would have been a credit to the city in every way; worthy representatives of complete public ownership, and not mere quasi-public institutions as has been the fact.

One of the main resources of objectors has been to point out the defects of the Chicago electric plant and exaggerate them into a "failure." A careful review of the case, however, from first to last, reveals, not a failure, but a remarkable success, especially

<sup>1</sup> Municipal Monopolies, 606



when we consider the expensive character of the construction, the high wages and short hours, the small number of lights compared to the capacity of the plant, and the size of the city, the absence of commercial lighting, and the influence of the *spoils system* which has now been overcome.

Chicago paid \$250 an arc before the public plant was put in ten years ago. In 1893-4, according to Chief Barrett's report, with underground wires and a little more than half the capacity of the plant in use, there were 1,110 full street arcs, \$620 investment per arc, and \$96 expenditure per arc-year, which the chief said included such full repairs and improvements as to cover all depreciation. Upon these conditions, with complete public ownership, the saving would be about \$150 per arc (or \$125 per arc if interest be included), as compared with the price charged before public operation began. Boston paid \$237 per arc for several years after Chicago built her municipal plant. Chief Barrett reported \$52 labor cost per arc. The works employed two shifts with short hours at \$2 a day. If the plant had employed one shift at \$35 to \$50 a month, as the private companies did, the labor cost per lamp would have been \$17, and the whole expenses \$61 per lamp. The city received two services from its lighting plant—the production of light and the lifting of labor. The former alone (which is all it received for the \$250 it used to pay the private companies) really cost it \$61 per lamp, including depreciation. If it had abandoned the other service and put labor back on the private enterprise level, it could have obtained its light for \$61 a lamp; wherefore the other \$35 (of the \$96 total) was not really paid for light but for the elevation of labor. Besides this, the plant was handicapped by changes of the common labor with each new mayor, and by refusal to allow it to sell commercial light, both due to political causes. There were 18,500 arcs and 433,400 incandescents in Chicago, and the city plant ran but 1,110 lamps—small plant, run half capacity, no commercial lights, no day load, only night load for street lamps, and superintendent's control of labor hampered by politics, and yet it was saving the city \$125 per lamp year at the very least. For commercial lighting the private companies were charging and still charge 1 cent an hour per 16 candle power light, or *over four times* what Chief Barrett said the city could do it for if allowed to sell light.

Upon the Chicago situation I wrote as follows in 1895: "It is to be carefully noted that the fact that Chicago does not manage her light plant as well as many other cities, is not an argument against public ownership of electric light any more than the fact that she does not manage her streets as well as many other cities is an argument against public ownership of streets—it is an argument for good government in Chicago in each case. The fact that a certain married man does not act as well as other married men because he is under the influence of an evil woman, is no argument against marriage per se, nor even against that particular marriage,

for may be he was a great deal more under the influence before he was married than after. That is the case with Chicago—compared with herself, before and after, she makes a good showing for public ownership. Whether with private ownership or public, she is worse off than most other cities under the same system. But she is better off with public ownership than she was with private. Her record with public ownership is not as good as it ought to be, but it is far better than her record with private ownership of corporations and monopolies.”

Since the above was written civil service reform has been inaugurated in Chicago, and this with an increase of 350 arcs have been chief factors in reducing the expenses per arc from \$96 to \$70 a year for each of the 1,460 arcs in 1898. The present chief, Edward B. Ellicott, estimates that in 1899 improvements and extensions will reduce the expenses to \$60 per arc, and the total cost, including interest and depreciation, to about \$90 per arc, 2,000 candle power all night and every night, underground wires, coal \$2.50, high wages, and no commercial lights. Near the close of 1898 the city plant has 2,500 arcs and the Halstead station had operating expenses of \$32.38 per standard arc for the first half of 1898, though not running up to its capacity as it expects to do in 1899. The public lighting plant in South Park, Chicago, under the control of the Park Commissioners, operates 490 6-hour full arcs at a cost of \$42 for operation and \$26.50 fixed charges, or \$68.50 total cost with coal at \$3.90.

Such a record is certainly far from indicating a “failure” for municipal lighting in Chicago.

Does the reader see reason to believe

A. That private monopoly means

1. Privilege, unequal rights, breach of democracy.
2. Congestion of wealth and opportunity.
3. Antagonism of interest between owners and the public, often causing extortion, inflation, fraud, defiance of law, corruption of government, etc.
4. The sovereign power of taxation in private hands and the ultra sovereign or despotic power of taxation without representation and for private purposes.

B. That regulation tho capable of affording some relief, cannot attain a complete solution, since privilege, congestion of benefit and antagonism of interest will still remain, while the motives to corruption, fraud and evasion of law are intensified and evil is driven deeper into the dark.

C. That *public* ownership in the true sense (see p. 17) will abolish privilege and remove the antagonism of interest between monopolists and the public, which is the tap-

root of monopoly evils. Public ownership alone can attain the maximum diffusion of benefit and realize the ideals of democracy.

If you do see this, or if for any other reason you favor the extension of public ownership, will you do what you can to secure the following?

1. PUBLICITY of the accounts and transactions of corporations, monopolies and combines in order that we may know exactly what the real investment, operating cost, salaries, wages, depreciation and profits are. The law should provide for direct inspection and audit by public officers and for full publicity of the results. The public which supplies the franchise and the patronage is of right a partner in the business and entitled to a knowledge of the inside facts. This knowledge is needed to fully prepare the way for the following moves.
2. EFFECTIVE PROHIBITIONS AND PENALTIES AGAINST STOCKWATERING, AND INFLATION OF CAPITAL. TAXATION OF THE MAXIMUM FACE OR MARKET VALUE OF CORPORATE SECURITIES, instead of allowing the companies to tax the people in rates on the basis of face and market values of stock and bonds, while paying back to the public a small tax on the actual value, or in most cases a fraction of the actual value of the plant. This will help to squeeze the inflation out of monopolistic capital, especially if the tax rate be made progressively higher in proportion to the width of separation between the maximum face or market capitalization and the structural value of the plant. This measure will have the additional advantage of enlarging the public revenues during the process of cutting down overgrown capitalization.
3. REDUCTION OF RATES by legislatures, councils, commissions, etc., to the point where (after paying operating cost, depreciation and taxes) they will yield simply a reasonable profit on the actual present value of the capital the owners have put into the business. This will check extortion, diminish the funds available for corruption and wealth congestion, squeeze all the remaining water out of corporate capital and prepare the way for public purchase at reasonable prices. (The amount the owners have put into the business, less depreciation.)
4. PROGRESSIVE TAXATION of large incomes, inheritances, land values and other properties exceeding a moderate individual holding. This will

help to check the concentration of wealth, diminish the corruption fund, return to the people a part of the money unfairly taken from them in monopoly taxes, etc., and provide ample funds for the public purchase or construction of gas and electric plants, street railways, telephone systems, etc. By perfectly just and lawful methods we can meet the cost of buying the monopolies by making the monopolists pay that cost out of the monies they have captured from the people thru unearned rents, excessive rates and unjust legislative grants; we can do it by means of progressive taxes levied in accordance with the principles laid down by Judge Cooley, John Stuart Mill, Francis A. Walker and other eminent authorities, culminating in the equitable maxim, "Equality in taxation means equality of sacrifice."

5. DIRECT LEGISLATION AND THE MERIT SYSTEM OF CIVIL SERVICE to secure public ownership of the government and provide the best foundations for real public ownership of industrial monopolies.<sup>1</sup>
6. THE EXTENSION OF PUBLIC OWNERSHIP AND CO-OPERATIVE INDUSTRY by purchase of existing monopolies or construction of public utilities, and by favoring profit-sharing, labor-copartnership, co-operative companies and federations, consumer's leagues, and everything that looks toward union of effort for the good of all.<sup>2</sup> None are more interested in these movements than the wealthy, for they mean evolution instead of revolution. (See Appendix II, E 2.)

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<sup>1</sup> Full public ownership of the government logically precedes public ownership of industrial monopolies, but as each tends to bring the other, we should work for both and neglect no opportunity of obtaining the latter under reasonable conditions even tho direct legislation and the merit system are not immediately attainable. In an Anglo-Saxon community generally, a public title to important business interests is one of the surest means of rousing the people to demand direct legislation and the merit system to make the public title a real public ownership.

<sup>2</sup> There are two general methods of arriving at true coordination and union of effort; (1), by voluntary individual action, crystallization of workers and consumers into co-operative groups, and gradual expansion and federation of these groups, till the whole community is included; (2), by public action originating an industrial organization or taking over an organization already effected. The ultimate results of the two methods are the same. They work toward the same end. At the limit they are identical. In a thoroly democratic, community voluntary co-operation merges into public ownership, and the growth of co-operation must inevitably create a thoroly democratic community. In such a community without aristocrats or slums, if every employee, user or person of full age and discretion directly affected by the street railways of a city should own a share and have a voice in their control, it would amount substantially to public ownership under direct legislation, proportional representation and equal suffrage.

The methods differ as to their special fields of application. One is peculiarly adapted to the development of industries in which individual initiative has free scope; the other to industries in which the transformation to co-operative forms is rendered specially difficult by the power and selfishness of entrenched monopoly.

In agriculture, manufactures, and commerce voluntary co-operation may attain most excellent results, building solid tissue by the affinities of the individual atoms, and molding men, under conditions of the most perfect liberty and thru the attractions of clearly appreciated personal interest, toward the co-operative nature, thought, feeling and conscience, so essential to the complete success of co-operative institutions. Wherever industry is free from the pressure of monopoly; wherever monopoly can be prevented or broken up or regulated so as to permit a reasonably practicable, smooth, and rapid approach to united industry thru co-operative crystallizations, expansions and federations, every effort should be made to rouse the people to the importance of forming co-operative groups that each of the great methods may do its appropriate work in the industrial reorganization of society. (Read Henry D. Lloyd's "Labor-Copartnership," and N. P. Gilman's "Co-operation and Profit-Sharing," and write to "The Consumer's League," of New York, for their publications). Even monopoly *may* be transformed by individual action where the monopolists can be persuaded to open the doors to labor-copartnership and citizen copartnership, aiming at diffusion of public ownership for the public good. It is a rare thing however for a monopolist to get industrial religion. And in dealing with monopolies, especially those that are strongly entrenched and constitute sources of corruption and congestion, the short-hand method of public ownership with payment out of earnings and progressive taxes, offers many practical advantages and is clearly the line of least resistance in this country now. Its immediate and powerful effects as an equalizer or eradicator of unjust advantage, place it in hearty accord with democratic sentiment, and form for it a vigorous alliance with democratic thought and action.

Public ownership is the highest form of co-operative industry. It is better for the ownership and control of a street railway or other monopoly to be diffused among a thousand men than to have it concentrated in one man or a dozen men. It is still better to have the ownership and control diffused among all the users and employees, best of all that it should be *equally* diffused thruout the whole citizenship affected. That only is complete democracy. Public ownership is the form of co-operation that attains the full ideal of diffusion making all citizens equal partners and admitting future generations to the inheritance of past accumulations, inventions, discoveries and social developments upon a plane of perfect equality and impartiality. In many cases it is clearly wise to go at once to the ultimate form by public purchase or construction, especially where oppressive and deeply rooted monopoly needs to be speedily overcome, or when important public interests are involved of a nature not likely to be adequately cared for by anything short of public action, or where the resistance to evolution on the line of individual co-operation is very much greater than the resistance to honest and intelligent public action.



## CHAPTER II.

### DIRECT LEGISLATION.

In early days the legislative function was exercised by the whole body of enfranchised citizens assembled for the purpose. The laws of the commonwealth were made by the voters directly, in substantially the same way that the laws of a New England town are made to-day. But after a time the body of free-men became too large to meet in this way, and a system of law making by delegates was adopted. Towns and districts elected men to represent them in legislative council, and government by representatives took the place of government by the people except in respect to the *local* affairs of towns that possess the town-meeting system.

The change from legislation by the people to legislation by *final* vote of a body of representatives chosen for a specified term, was a transformation fraught with the most momentous consequences. Under the former system the people had complete control of legislation. No laws were passed that the people did not want, and all laws were passed that the people did want. But under the delegate or representative-final-vote system this is not true. The representatives can and do make and put in force many laws the people do not desire, and they neglect or refuse to make some laws the people do desire. The people cannot command or veto their action during their term of office. The representatives are the real masters of the situation for the time being. Between elections the sovereign power of controlling legislation is not in the hands of the people, but in the hands of a small body of men called representatives. It appears therefore that the change from legislation by the voters in person to legislation by delegates was a change from a real democracy to an elective aristocracy; from a continuous and effective popular sovereignty to an intermittent, spasmodic and largely ineffective

popular sovereignty; from a government of the people, by the people and for the people, to a government of the people, by a few for—— the people? —— yes, sometimes, but too often for the legislators, and the lobbies, bosses, rings, monopolies, and party leaders who control them. It was a change in which self-government was fettered and the soul of liberty was lost.

What then shall be done? Shall we give up the representative principle? Clearly not. Division of labor and expert service are as essential in law making as in any other business. It is not representation, but misrepresentation that is wrong—not the representative system per se, but the unguarded and imperfect form of it in use at present. What we want is not a body of legislators beyond the reach of the people for one, two, four or six years, as the case may be, but a body of legislators subject at all times to the people's direction and control. It is good to have powerful horses to draw your load, but it is well to have bit and rein and whip if they are frisky or likely to shy or balk. It is good to choose strong men to manage municipal and State affairs, but it is well too to provide the means to hold them in check or make them move at the people's will.

The problem is to keep the advantages of the representative system—its compactness, legal wisdom, experience, power of work, etc., and eliminate its evils, haste, complexity, corruption, error, over legislation and under legislation—departure from the people's will by omission or commission.

The solution lies in a representative system guarded by constitutional provisions for popular initiative, adoption, veto, and recall. Elect your councilmen and legislators and let them pass laws exactly as they do now, except that no act but such as may be necessary for the immediate preservation of the public peace, health or safety, shall go into effect until thirty days after its passage in case of a city ordinance, or ninety days in case of a state law. If within the said time a certain percentage of the voters of the city or state (say five or ten per cent.) sign a petition asking that the law or ordinance be submitted to the people at the polls,

let it be so submitted at the next regular election, or at a special election if fifteen or twenty per cent. of the voters so petition. If the majority of those voting on the measure favor it, it becomes a law; if the majority are against it, it is vetoed by the people.

Let it be further provided that if the council or legislature neglect or refuse to take any such action by ordinance, law, contract, franchise, etc., as the people desire, the matter may be brought forward for prompt decision by a petition signed by a reasonable percentage (say five or ten per cent.) of the voters of the city or state. The petition may simply state the general purpose and scope of the desired measure, leaving the council or legislature to frame a bill to be submitted to the voters; or it may embody a bill or ordinance, whereupon the petition, with the bill or ordinance, will go to the council or legislature, which may adopt it, reject it, pass an amendment or substitute, or do nothing—in any case the proposed measure (together with the action of the council or legislature upon it, if any) will go to the polls for final decision at the next election, or earlier, if a sufficient number (say fifteen or twenty per cent.) of the voters so petition.

These methods of law making by the people are called Direct Legislation, which includes two main processes known as the Initiative and the Referendum.\*

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\*The referendum may be obligatory or optional, general or partial, executive, legislative, judicial or petitional. Under the general *obligatory* referendum all laws except emergency measures (acts necessary for the immediate preservation of the public health, peace or safety) *must* be submitted to the people; no petition is needed; the submission is as much a part of the process of law making as the submission to the mayor or governor. The cantons of Berne and Zurich, in Switzerland, have had this system in operation for thirty years with admirable results. Under the *partial obligatory* referendum all laws of a certain class must be submitted to the people. For example, constitutional amendments *must* be submitted to the voters in every one of our states except Delaware, and in Missouri, California, Washington, Minnesota and Louisiana freehold-charters must go to the polls. The purchase or erection of water works, gas and electric plants, telephones and street railways, the issue of bonds for roads, schools and other municipal movements of large importance are usually guarded by the obligatory referendum. (See Chapter III. Comments on Table II.)

The *optional* referendum provides for a vote of the people on any measure in reference to which such vote is demanded by petition of a reasonable percentage of the voters, or by some officer or body in whom such discretion is vested.

The *executive* referendum is where the mayor or governor or president has a right to refer a measure to the voters for decision.

The *legislative* referendum is where one house, or a given percentage (say twenty-five per cent.) of one or of both houses may refer a measure to the people for decision, or where a measure upon which the houses disagree must be referred to the voters.

The *judicial* referendum is where a law that has been declared uncon-

The *Initiative* is the proposal of a law by the people.

The *Referendum* is the submission of a law to the people at the polls for approval or rejection.

By these means the people can start or stop legislation at will. By initiative petition they can bring a measure forward for discussion and decision. They can repeal an old law or amend it, or enact a new one, and progress is no longer barred by the interest or inertia of the legislators or councilmen, nor by the weight and wealth of corporate monopoly. Moreover, the people can *prevent bad* legislation as well as secure good legislation. If the legislature passes a law the people dislike they can call for a referendum and veto the measure at the polls before it goes into effect, whereas at present the law goes into effect whether the people like it or not, and they have to wait till they can elect a new legislature to repeal the obnoxious act (after the damage is largely done, perhaps), and if the said act is a franchise, very likely it cannot be revoked at all when once allowed to take effect—a franchise grant to a private company being a contract within the protection of the Federal Constitution, a fact which makes it particularly necessary that franchise grants (especially if unqualified by a reservation of the right to revoke at will) should be submitted to the people.

Does not the Direct Legislation Amendment to the Representative System solve the problem? Does not the *guarded* representative system retain the benefits and eliminate the

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stitutional must be submitted to the people for the final decision under a fixed rule to that effect, or *may* be so submitted by the court, or by a specified number of the judges.

The *petitional* referendum is where the submission is called for by petition of the voters. A petition signed by the required number of voters is imperative, not a mere request, but a compelling mandate. It is the petition form of the optional referendum, or the *system in which the option lies with the people*, that is usually meant when the word "referendum" is used without explanation.

It will be seen that executive, legislative or judicial referenda may be either obligatory or optional, general or special, and that the petition method can be used to repeal an old law or veto a new one, or confirm a law declared unconstitutional, or call for an election to remove a legislative or executive officer or a judge from office.

The effective vote at the polls may be fixed at a majority of those voting, or of those entitled to vote, or a three-fifths, two-thirds, or three-fourths vote may be required.

The word "referendum" is often used in the sense of *the right of the people to have enactments submitted to them*, and it is also used to designate a *statute or constitutional amendment securing this right*. The word "initiative" is used in a similar manner. The context will usually show which sense is intended.

evils of the *unguarded* representative system? The city or state will have its body of legal experts, trained advisors, and experienced legislators as at present. They will continue to do most of the law-making as they do now, but their power to do wrong or stop progress, their power to do as they please in spite of the people, will be gone. The city and state will have the *service* of its legislators without being subject to their *mastery*. If the delegates act as the people wish, their action will not be disturbed. If they act against the people's wish, the people will have a prompt and effective veto by which they can stop a departure from their will before any damage is done. If the delegates do not act, the people can put the machinery in motion and bring the matter to decision. When the delegates truly represent the people their action will stand; when they fail to represent the people their decision will be subject to prompt revision. To-day their acts that do not represent the people's will stand as firm during their term of office as the acts that do represent the popular will. Is this right? Is it right that the people's delegates should be able to impose their will upon the people for one, two, four or six years? Is it right that the acts of delegates contrary to the people's will should stand in spite of the people? Is such a delegate system really worthy to be called a "representative system?" Is a system properly termed representative which may misrepresent as much as or more than it represents, and in which there is no adequate means of determining whether its action is representative or not? Is not the right to a referendum, the right of the people to prevent the delegates from misrepresenting them, absolutely necessary to entitle the delegate system to the name "representative?"

#### SELF GOVERNMENT.

There is a confused impression in the minds of many that the choosing of rulers is the substance of freedom and self-government; that a people who elect their law makers are really making the laws. But it is not so. The selection of a governor is not governing, any more than the selection of a



captain is commanding, or the choice of an organist or pianist is playing. The choice of a legislature is not self-government any more than the selection of a jailor or the choice of a jail is freedom.

An apprentice may be allowed to choose the master to whom he is to be bound for years, and a lunatic or minor who is deemed incapable of governing his own affairs may, nevertheless, have the privilege of selecting the guardian who is to govern him. A people may elect their rulers and yet live under an absolute despotism. This was true in old Rome when the King was elected by the whole body of citizens. It is true now of the Western Fulahs in Africa and the Kamtschadales in Asia, who elect their chiefs, but after election must obey the head man's orders. It is true in many of the cities of America, where the people go to the polls year after year in the fond delusion that they have a voice in the administration of public affairs, whereas, in reality, a ring of rascals holds the city in its grasp, and whichever nominee the citizens may vote for, the ring will rule the same as before, enacting its private purposes into law, pouring the public moneys into its purse, filling appointments with its creatures to perpetuate its power, and controlling the city for its plunder, regardless of the interests or the wishes of the people. It is true in the nation and the states as well as in the cities. The rule of a congress or legislature that does the will of a railroad or syndicate of gamblers in opposition to public opinion and the good of the commonwealth is a despotism as truly as ever the rule of a Tarquin or a Cæsar was. Napoleon himself, the arch-despot of modern times, was elected to his imperial power.

The *duration* of a government or lease of power has nothing to do with its character as free or despotic. A control that lasts but a single year may be as far from freedom as one that endures for a life time; and a people electing their rulers each year to govern according to their own sweet will *may* be no better off than a nation which elects a sovereign to wear the crown for life. The essence of despotism is the control of others for the benefit of the controller, regardless

of the welfare of the controlled. The Tweed administration was a despotism altho elected to power. So was the gas legislation of the Philadelphia councils leasing the city works to a powerful and corrupt ring, in spite of the well-known and vigorously-manifested opposition of the great mass of the people. So was the action of the Black Congress that gave away the people's franchises and money and lands to the schemers who projected the Pacific roads. Men of America, do you govern the country? Is it your will that is done in Senate chamber and council hall, or is it the will of the oil-trust, sugar-trust, whiskey-trust, the railways and the bankers? *He is the sovereign whose will is in control.* You are not sovereign, for many things you wish to have done remain undone, and many things are done that you do not wish to have done. Politicians call you sovereigns in their campaign speeches. But it is not true. You have the privilege of choosing which of two or three sets of sovereigns you will have to rule over you, but you are not sovereigns yourselves. The men you elect are your masters during their term of office. You come to them, not as sovereigns to their servants, but as subjects, with humble petitions, which you are not surprised to see them reject or ignore. They give away your property and you are helpless; they pass laws without your approval and against your interest and you cannot prevent their taking effect; they refuse to take action on your most pressing needs, and you are powerless until the expiration of their deeds of sovereignty gives you an opportunity to choose a new lot of masters to rule you for another term. This is not a government by the people, but a government by an aristocracy of office holders elected by the people. You call your rulers "representatives;" and to some extent they are such. Honesty and coincidence of interest do lead them to carry out your will to some extent, but they are free to legislate for their own private interests or the interests of those who furnish inducements for action in their behalf, and the people cannot prevent it. Representatives have their uses. You need the aid of specialists in legislation, but you do not need to part with your rightful control of your own affairs when

you seek their aid and council any more than you need to part with it in dealing with a tailor, a doctor, or an architect.

It is well to employ an architect when you are going to build, but you never would think of giving him power to draw up his plans and put them into execution without submitting them to you for approval, much less would you give him a right to refuse to alter his plans in accordance with your request, or to decide how much of your money should be spent without recourse to you for assent, or to expend your funds for a structure which you strongly disapproved and against which you loudly protested. You would avail yourself of the architect's skill in the drawing of plans, but you would feel free to tell him what sort of a house you desired, and would expect him to act upon your directions and suggestions, and to submit his plans to you for approval or rejection before beginning to build on your land and on your credit or with your cash. In this case you would continue to control your affairs while availing yourself of the architect's wisdom and skill. In the first case, the control of your affairs would be in the architect, not in you.

It is the same with legislation. Doubtless it is well to seek the aid and council of men well versed in law and skilled in the phrasing of statutes, but it is not necessary to give these men the power to ignore our petitions, nor the right to put the laws they plan in execution without allowing us time and opportunity to express our disapproval and rejection if we wish to do so. There are cases of extreme urgency, in which the architect or the legislative agent must be permitted to act without waiting to consult his principal. Fire, flood, or other unforeseen event may make it imperative that the builder should act on his own judgment, without an instant's delay. Likewise an unforeseen event endangering the public safety may make it needful for our legislators to act at once. But as a rule there is time for consultation, and it ought to be required. If you do not require it, if you allow your "representatives" to put their plans into execution without an opportunity on your part to reject them or modify them, you practically place the control of your affairs in the said repre-

representatives for the term of their election, and self-government on your part ceases during the said term.

We do not want a government by the people without representatives, nor a government by representatives without the people; but a government by the people with the aid and advice of representatives, or what is essentially the same thing, a government by representatives acting as the people's agents, subject at all times to the orders and instructions of the people, and to total revocation of authority at their will. The first is impossible in a complex society; the second is an abandonment of the principle of self-government; the third combines the good qualities of the representative system with a real sovereignty in the people—it secures the economies and values of representation without sacrificing justice, liberty and self-government. It uses the legislator, like the architect, to draw up the best plans his knowledge permits; it gives him a right, like the architect's in cases of extreme emergency, to act upon his own unaided judgment; but requires him at all other times to submit his ideas to his principal before putting them in practice, and holds him at all times subject to the orders and suggestions of his principal. Such is clearly the ideal management of political affairs as well as of business affairs. Indeed politics is itself nothing but business; the *people's* business, it ought to be, and under their control. We have already seen how this intimate and continuous control of their representatives by the people can be secured in place of the present subjection of the people to their representatives during successive periods. It is a simple matter of extending the use of the referendum.

#### THE REFERENDUM IN USE IN AMERICA.

*The Referendum is already a Fundamental Fact in American Government and a Settled Principle in our Legislative System.*

The suggested improvement of our representative system, to make it harmonize with the law of self-government does not require the adoption of any new principle or method. Both the initiative and the referendum have been in constant use in America ever since the Mayflower crossed the sea. All

that is needed is an *extension* of established principles and methods to cases quite as much within their reason, purpose and power as those to which they are now applied.

In many of our towns we have the ideal of Democracy in respect to local affairs. They are controlled by the people directly. Any ten men, by petition to the selectmen, may secure the insertion of an item in the warrant for a town meeting, and so bring the matter before the town. Any one may make a motion or enter the discussion, and all may vote. The town meeting plan is the Initiative and Referendum applied to town business.

Direct Legislation is also used by all our states, except Delaware, in making and amending their constitutions, from which it would seem that our citizens are already convinced that it is the best possible plan of legislation, since it is the one they adopt in respect to their highest and most important law.

At first, as we have said, there was no other sort of government. For nearly twenty years after the founding of Plymouth Colony, in what is now Massachusetts, the law making was done in primary assembly of the freemen every quarter, and when the colony grew so large that it was difficult for the people to meet in this way four times a year, it was provided that every town should elect two delegates to join with the Bench in enacting all such ordinances as should be judged good and wholesome, and that the whole body of citizens should meet once a year to have a general oversight of the doings of the delegates, repeal any of their acts that were deemed prejudicial to the whole, and pass such new measures as might be needful in the judgment of the people.<sup>2</sup> That was the referendum almost as it is advocated to-day. It lasted from 1638 till 1658, and in a modified form till 1686, but it was lost to state affairs when the colony was united with others and the population became too large to meet even once a year. No one in Massachusetts seems to have thought of the method of polling the whole citizenship on specific

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<sup>2</sup> See Direct Legislation Record, 1898, p. 33, and "Representation and Suffrage in Massachusetts, 1620-1691," by Prof. George H. Haynes.



measures<sup>3</sup> for the reason may be that in those primitive, unsophisticated times, the delegates really acted very nearly as the people wished them to. The population was comparatively homogeneous in interest, the disturbing influence of powerful class and monopoly interests was unknown, and the modern politician had not been born.

Still the people did preserve Direct Legislation in town affairs and in the making of the fundamental law, fondly dreaming that this would be sufficient to prevent any possible deflection of wiley representatives. It has not done that, but it has proved itself the most perfect of all legislation. No law-making in the world has been so smooth, so wise, so effective, so free from taint or suspicion of class interest or corruption as the making of American constitutions and the legislation of New England town-meetings. Compare the honest, public-spirited, effective, progressive and economical government of a Maine or Massachusetts town with the dishonest, selfish, narrow, ineffective, non-progressive and extravagant governments of our ring-ruled cities, and you will get some idea of the natural tendencies of the two systems—leaving the law-making power with the people, or giving it to a limited number of men to play with as they please for a specified time. No other part of the country can be compared to New England in the completeness of its local improvements, yet nowhere is the debt so small as in New England towns; nowhere else are the voters so well informed; nowhere else is such ample provision made for the education of children.<sup>1</sup>

Thomas Jefferson referred to the town-meeting as "the wisest invention ever devised by the wit of man for the per-

<sup>3</sup> In other places the thot occurred and was acted upon. In the seventeenth century the fundamental law of Rhode Island required that all laws passed by the general assembly should be referred to the people, and this was done until the law was superseded by a royal charter. In reference to the early constitution of Pennsylvania Noah Webster says, "I cannot help remarking on the singular jealousy of the constitution of Pennsylvania, which requires that a bill shall be published for the consideration of the people before it is enacted into a law, except in extraordinary cases," and remarks that this reduces the legislature to an advisory body. In Virginia Jefferson drafted a provision that all laws, after passing the legislature, should be voted on by the people, and advocated it as a part of the state constitution, but it was defeated for fear it might touch slavery. This was the referendum in its highest form—the obligatory.

<sup>1</sup> See "Town and Village Government," by H. L. Nelson, *Harper's Monthly*, Vol. 83, p. 111, June, 1891, contrasting the effects of the New England town-meetings with the effects of the village government in states not possessing the town-meeting.

fect exercise of self-government and for its preservation." Prof. John Fiske says that "Government by town-meeting is the form of government most effectively under watch and control. Everything is done in the full daylight of publicity. The town-meeting is the best political training school in existence. It is the most perfect exhibition of what President Lincoln called 'government of the people, by the people and for the people!'" Prof. Bryce says, "The town-meeting has been the most perfect school of self-government in any modern country. \* \* \* It has been not only the source, but the school of democracy."

The value the people of New England place upon their town-meeting system is shown by the tenacity with which they cling to it, refusing to have their towns incorporated even after they have grown to unwieldy size, because in so doing they lose the town-meeting and pass from self-government into the hands of politicians. For this reason Pawtucket, Rhode Island, did not become a city until its population came close to 20,000. Brockton, Massachusetts, held off until it was listed at 15,000. North Adams, a town of more than 16,000 inhabitants and 4,000 voters has repeatedly refused to become a city. Waltham, Chicopee, Pittsfield and many other towns bear witness to the same strong feeling. Massachusetts has only thirty-two incorporated cities, instead of sixty or more, as she would have under the regime prevailing in states where the town-meeting is not in vogue.

Brookline, Massachusetts, is a town of 15,000 people. It lies within the metropolitan district of the city of Boston, but is not a part of Boston, having retained its government in spite of its situation within the practical limits of a giant city. The contrast between the city of Boston and that of Brookline is a startling one. Boston, tho better governed than some other cities, has its corruption, its bosses, rings, spoils system, arrogant monopolies, high taxes and extravagant expenditures—extravagant for the results achieved—four or five times as much as the English city of Birmingham spends to obtain as good or better results.<sup>1</sup> In Brookline economy is

<sup>1</sup> Forum, Nov., '92, p. 267; see also No. Amer. Rev., v. 152, p. 538.

a fine art, and tho large amounts are spent in public improvements and on the magnificent school system, the taxes are considerably lower than in Boston. There is no corruption, boss rule, ring rule, or spoils system in Brookline, altho the expenditures amount to  $1\frac{3}{4}$  millions a year, or more than the expenditures of the whole state of New Hampshire. The town is governed by the citizens in primary assembly, the town meetings averaging eight per year.<sup>4</sup> The meetings begin at 7.00 P. M., and are usually over between 10 and 11 P. M. Ample notice is given of every matter to be considered at the meeting, so that proposed ordinances, etc., may be fully discussed, and all who feel interested may attend, make motions, argue and vote. Sometimes a large number of voters attend the meetings, but usually two or three hundred of the best-informed and most public-spirited citizens do the business, so that while the door is open for the whole body of citizens to take part in the decision of any matter that comes before the town, yet the actual decision in each case is generally left by tacit assent to a small body of public-spirited men who have taken pains to inform themselves upon the questions in issue—two hundred men in one case, perhaps a thousand in another, a legislative body whose units vary considerably according to the topics under discussion, coming together by a sort of natural selection, compounded of interest, intelligence and public spirit, acting with the power of a limited assembly, but subject at all times to prompt revision or veto by the whole body of citizenship—a fact which operates to keep attention and decision close to the public interest. This is exactly the sort of government we are proposing for our cities and states. The extension of the initiative and referendum to practically the whole range of municipal and state business will place the ultimate power at all times in the people, and that will make it safe to leave public business to limited bodies of experts, who will be held true to the public interest by the power of veto and revision residing in the public. When we contemplate the admirable effects of this

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<sup>4</sup>See the yearly reports of the town and a condensed account in the Direct Legislation Record, 1896, pp. 2-4, and "Brookline, A Model Town Under the Referendum," by B. O. Flower, Arena, Vol. 19, p. 505, April, 1898.

system in Brookline, effects which lead the people of Brookline to resist most earnestly all attempts to make the town a part of Boston, because their experience has shown that Direct Legislation gives results far superior to those obtained under the unguarded delegate system in the adjoining city of Boston, even tho the said adjoining city is so much better than other cities that it prides itself, not without reason, on being the Athens of America and the Hub of the Universe. When we contemplate these facts we feel convinced that common sense and civic patriotism demand the extension of the principle of Direct Legislation to Boston and all other cities of our land.

The worth of the town-meeting method is recognized not only in Massachusetts, Maine, New Hampshire, Vermont, Rhode Island and Connecticut, but in New York, Michigan, Illinois and many other states outside of New England. In Illinois it came into direct and vigorous conflict with the representative system of local government. In 1818, when Illinois became a state, its population was chiefly in the southern counties, and composed for the most part of settlers from Virginia and Kentucky, Virginia's daughter state. These settlers established a system of local government by elective representatives without any local deliberative assemblies of the people. Settlers from New England and New York, coming into the northern part of the state, began to demand the town-meeting system. A struggle ensued, resulting in the adoption of a new constitution (1848) providing for local option in local government; that is, township government by deliberative assembly of the voters would be organized in any county whenever a majority of its voters so determined. The two systems being thus brought into immediate contact in the same state, with the people free to choose between them, the northern system has steadily supplanted the previously established southern system till less than one-fifth of the counties retain the representative system, more than four-fifths of the state having adopted the New England town-meeting system of local government.

A similar local option by county vote has been established

in Missouri (1879) and in Nebraska (1883). In Minnesota (1878) and Dakota (1883) provisions for township option have been enacted, i. e., any township containing 25 or more voters may petition the county commissioners and obtain the New England organization.

The general movement toward Direct Legislation in town affairs is unmistakable, and the public school system is often the entering wedge. The school district as a preparation for the self-governing township is exerting its influence in Kansas, Colorado, Nevada, California, Wyoming, Montana, Idaho, Oregon and Washington. Even in South Carolina, Kentucky, Tennessee and the Virginias a similar tendency is manifest, and it is probable that thruout the southern and western states, as formerly in Michigan, the self-governing school district may bring in its wake the self-governing town, with its deliberative assembly of the voters, electing officers, levying taxes and making town laws by direct vote of the people.<sup>5</sup>

The use of the referendum in the United States is not confined to town affairs and constitution making. Any one who will go thru the laws of the various states marking all provisions for submitting to popular vote franchises, licenses, contracts, bond issues, charters and all sorts of laws and ordinances, will discover a vast number of referendal clauses, and will begin to realize how important a place in our law is already occupied by Direct Legislation in state and city affairs. Some perception of this may be secured by marking the referendal clauses in the laws cited in Chapter III of this book, but the distance between such perception and the whole truth may be appreciated when it is known that in the single state of Iowa a moderate search, by no means exhaustive, has revealed thirty provisions for the popular initiative and twenty provisions for the referendum, most of them obligatory; and such provisions are not more prevalent in Iowa than in many other states. Some of these enactments are given below\*;

<sup>5</sup> John Flske's "Civil Government," pp. 90-94.

\*Some of the Iowa provisions are as follows:

1. "One hundred citizens of any city of over seven thousand inhabitants may cause the question of establishing a superior court to be submitted."

2. "One-fourth of the voters may cause the question of raising taxes for public improvements or payment of debts to be submitted; or the ques-



the points I wish to emphasize here are: *first*, that our laws are permeated by the principle of Direct Legislation; *second*, that in a large body of cases the obligatory method is in use; *third*, that in a considerable number of other cases the option rests with the people; *fourth*, that in another large body of cases the option is expressly given to the executive or legislative authorities; and *fifth*, that *in all other cases*, according

tion of the rescission of any of such proposition that has already been adopted."

3. "Two-thirds of the voters of any village may cause the board of supervisors to change the name of such village."

4. "A majority of the voters of a township may cause the trustees to submit the question of building a public hall."

5. "Twenty-five voters of any portion of territory may cause the district court to submit the question as to whether such territory shall be incorporated as a town."

6. "Twenty-five of the voters of such town may cause the question discontinuing the incorporation to be submitted."

7. "A majority of the voters of a portion of territory adjoining a city or town may cause the question as to being annexed to such city or town to be submitted."

8. "Ten per cent. of the voters of a city or town, under special charter, may cause the council to submit the question as to abandoning such charter."

9. "Twenty-five property owners of each ward in a city, or fifty owners of a town, may cause the mayor to submit the question as to municipal ownership of water works, gas works, electric light or power plants, or granting franchises for such."

10. "One-third of the taxpayers of a city or town may cause the question as to aiding in the construction or repair of a highway leading thereto to be submitted."

11. "Twenty-five property owners in each ward in a city, under special charter, may cause the mayor to submit the question as to ownership of water works, gas works, electric light or power plants, or granting franchises for same or for railways, street railways or telephone systems."

12. "One-fourth of the voters of a city, under special charter, may cause the question as to amending such charter to be submitted."

13. "A majority of the resident freehold taxpayers of a township, town or city may cause the question as to aiding railroad company in construction of projected railroad to be submitted."

14. "From fifty to eighty per cent. of the voters of a city or town, according to population, may cause the mulct tax to be substituted for the prohibition law against selling liquor."

15. "One-third of the voters of a county may cause the question as to establishing a high school to be submitted."

16. "Ten voters of any city, town or village of over one hundred residents may cause the question of making it an independent school district to be submitted."

17. "One-third of the voters of a school corporation may cause the question of free text books to be submitted."

18. "The State cannot go into debt more than two hundred and fifty thousand dollars without submitting the question."

19. "All acts creating banks must be submitted."

20. "Amendments to the constitution must be submitted."

21. "No territory can be annexed to a city or town without submission."

22. "The council may submit the question as to annexing territory in cases wherein such territory has asked for annexation."

23. "The council must submit the question as to uniting the city or town with another contiguous one."

24. "No city or town can extend its limits without submission."

25. "The name of a city or town cannot be changed without submission."

26. "No water works, gas works or electric light or power plants shall be authorized, established, erected, leased or sold, or franchise extended or renewed without submission."

27. "Cities and towns cannot appropriate money to found and maintain libraries without submission."

28. "No water works can be purchased or constructed by cities of the first class without submission."

29. "Cities and towns cannot grant, renew or extend franchises for the use of its streets, highways, avenues, alleys or public places for tele-

to the law of most of our states,<sup>1</sup> the referendum may be used at the *discretion of the legislative authorities*—the legislature or council *may* submit *any* question to the voters, so that really *the only change we ask for is the placing of the OPTION in the hands of the people instead of leaving it entirely with the legislators*. If it rests with the councilmen to decide whether a franchise, lease, or other matter shall be submitted to the voters, they will be ready enuf to submit enactments with which they have tried to act honestly, and in respect to which they really desire to follow the people's will; but when there is a steal on foot and the councils are conscious of dishonest purpose, they will refuse to submit the matter to the voters. The question of building a public subway may go to the people, but the question of a Broadway Franchise or a Philadelphia Gas Lease will not be submitted, even tho the people hold enormous mass meetings demanding it, and the press is a unit in favor of it, and public sentiment is at a white heat over the refusal. To leave the whole *option* with the legislators is to put the referendum beyond the reach of the people just when they need it most. As tho my architect could submit his plans to me before building if he chose, or go ahead and build with my funds without consulting me, no matter how much I protested, if it suited his purpose to use his discretion that way. When he was acting honestly for my interest he would consult me, for he would have nothing to fear from such consultation; but

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graph, district telegraph, telephone, street railway or other electric wires without submission."

30. "Cities cannot deepen, widen, straighten, wall, fill, cover, alter or change the channel of any water course, or part thereof, flowing thru the limits of such city, or construct artificial channels or covered drains, without submission."

In a large number of States the prohibition of the liquor business is allowed to cities or counties by vote of the people, and the referendum is being used more and more in the obligatory form, through constitutional provisions compelling the legislatures to submit certain questions to the people whether they petition for a referendum or not. In 15 states the location of the capital cannot be changed except by popular vote. In 11 states no debts, unless specifically provided for by the constitution, can be incurred without such a vote. In many states a similar restriction applies to assessments above a fixed rate. In 19 states counties must choose their county seats in this way.

<sup>1</sup>Delaware seems to take a position against any implied authority in the legislature to submit questions to the people. *Rice v. Foster*, 4 How. (Del.) 479. The vast weight of authority, however, is the other way. See *People v. Reynolds*, 5 Gilm. (Ill.) 1; *Ewing v. Hoblitzelle*, 85 Mo. 64; and the citations in the article by C. S. Lobinger, Esq., on "Constitutional Law" in *American and English Cyclopædia of Law*, p. 1022 of vol. VI (2d ed.), and in Dr. E. P. Oberholtzer's "Referendum in America," published at Penn. University.

if he were trying to put up a job on me, he would exercise his option to act without conferring with me, because such a conference would greatly endanger the success of his job.

A few illustrations may show how frequent is the use of the referendum, and how thoroly the legislators believe in it when they have no private interests likely to be endangered by it.

1. The New Jersey legislatures of 1885 to 1888 are said to have referred 40 questions to the people.

2. In the fall of '93 California sent 9 questions to the people.

3. New York voted a few years ago on the question of prison labor and on selling the public salt works.

4. The city of New York long ago voted at the polls on the water supply, and have recently decided in the same way to build an underground city railway, and the legislature has also referred the question of municipal annexation and consolidation to the citizens of New York and vicinity.

5. Boston citizens have voted a number of times on the use of the common, rapid transit, the subway, the methods of choosing aldermen, a single chamber, etc.

6. Minneapolis recently voted on the question of raising \$200,000 for the schools and \$400,000 to extend the city water works.

7. San Francisco, Los Angeles, St. Louis, Kansas City, Duluth, Tacoma and other cities have held referendal votes on the adoption of freehold charters. (See Chapter III.)

8. It is a common thing to submit to the people of a city questions relating to the purchase or erection of public water works, gas works, electric light plants, etc. In a very large proportion of the four hundred municipalities that own their electric light plants the matter was decided by direct vote of the citizens. In a number of other states a referendum vote is necessary to the grant of street franchises for water, gas, electric light, telegraph, telephone, transit, etc. In several states such referenda are required by the constitution. (See Chapter III, comments on Table II.)

In New Orleans a specially interesting referendum has re-

cently been held (June '99) on the question of levying a tax to establish municipal water supply and better sewage. Women could vote, and vote, if they wished, by proxy, a dangerous provision as to the proxy part of it. The *initiative* was also used, as the referendum was secured by a petition signed by over 10,000 taxpaying voters.

9. Many referenda occur in counties, townships and school districts, fixing of county seats, division lines, school taxes, questions of municipal indebtedness, etc.

10. Local option is the referendum in full bloom. For years the cities and towns in Massachusetts have been voting at moderate intervals on the question of license or no license. Many of them, including even Cambridge and Chelsea, have voted against license. The total vote on the liquor question frequently exceeds the vote for candidates. For example, the Chelsea vote for mayor in 1896 was only 96 per cent. and the vote for school committee only 80 per cent. of the local option vote. Local option on the liquor question also exists in New York State, Mississippi, Arkansas, Texas, Georgia, Tennessee, etc., and the effects in educating the people on the temperance question, developing local patriotism and bringing it to bear upon the enforcement of law are most admirable.

The following cases of the use of the referendum in November, 1896, may be noted here:

1. Massachusetts voted on two amendments to the constitution. The amendments had been passed by two Republican legislatures and endorsed by the Republican convention, yet both were defeated by a 60 per cent. adverse vote, altho McKinley got nearly 70 per cent. favorable vote and the Republicans carried the state ticket also by a tremendous majority. This shows the independence of party ties which usually characterizes a vote on a well-defined measure, and illustrates the fact that "representatives," even when acting honestly, may not represent the real opinion of their constituents. The total vote for governor was 380,000, and on the amendments 276,000 and 261,000 respectively—only the more intelligent and fully posted voting on the latter.

2. New York voted on the Forestry Amendment passed

by two Republican legislatures and endorsed by the Republican Board of Forestry Commissioners. The amendment was defeated by 400,000 majority, tho the Republican Presidential electors had over 200,000 majority. The vote on the amendment was 321,486 for and 710,505 against. The total vote for President was 1,423,876.

3. In Minnesota nine amendments were submitted; one was defeated and eight adopted, the favorable votes varying from 90 to 58 per cent. on the different questions. Party lines were not drawn on the amendments.

4. In Missouri four amendments were voted on. They were not party measures and had not been discussed in the papers. The people voted them all down, probably thru the natural instinct of wholesome conservatism, that refuses to make a change until the reasons for it and the effects of it are understood. The votes on the amendments were respectively 57, 59, 62 and 80 per cent. of the Presidential vote, which was 20 per cent. larger than the ordinary vote in a non-presidential year.

5. Nebraska voted on twelve amendments. The votes varied from 54 to 70 per cent. in favor of the amendments and 50 to 53 per cent. in favor of the various Populist candidates. That is, the range of discrimination on measures was five times as great as on men. This shows that there is less partisanship and more judgment in voting on measures than in voting on men.

6. The Colorado people defeated an amendment submitted to them. It was complicated and not well understood, so that few voted upon it. Those who voted did not act on party lines but opposed the amendment because it contained some propositions thought to be suspicious, as possibly intended to cover a job. The amendment was favored not only by the legislature but by many state officers.

7. Idaho voted on three amendments, including one for equal suffrage. They were not party measures, but were brought before the people by an almost unanimous vote of the legislature. The equal suffrage amendment was recommended in the platform of every state convention. All the



amendments were adopted, equal suffrage by a 70 per cent. vote.

8. In Montana an amendment apparently beneficial was overwhelmingly defeated because, as I am told, it was suspected of concealing a trick.

9. In California six amendments were submitted by the same legislature; three were ratified and three defeated. The voting was not on party lines nor in any sort of agreement with the action of the people's "representatives." The second amendment was carried by 43,000 and the first *was defeated by 100,000* (162,945 against and 63,824 in favor). The highest vote on any amendment was 85 per cent. of the total vote for candidates.

10. Louisiana, Texas, Arkansas, Georgia, the two Dakotas and Washington also voted on constitutional amendments in 1896. Michigan has had twenty-nine referenda in twenty years, most of them vaguely stated and not largely voted on.<sup>1</sup>

The large experience of our cities and states with the true referendum, a small part of which has been recited, appears to establish some very important generalizations.

1. As a rule much greater *discrimination* is used in voting on measures than in voting on men.

2. The referendal voting is largely *independent* of party ties or the vote on men. Measure after measure is voted down by the same citizens who sustain the party and re-elect the legislature that proposes these measures. If it were not for the referendum—if the citizens had simply compound platforms to vote for, with candidates and party politics to ob-

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<sup>1</sup>For further cases of the use of the referendum and the initiative, see the Direct Legislation Record, Vols. I to V, edited by Elihu Pomeroy, of Newark, N. J., President of the National Direct Legislation League; also Oberholtzer's books, "King People" and "The Referendum in America;" the statute books of the various states and the municipal records and reports of cities and towns all over the United States. A number of referendum votes were taken at the recent elections (November, '98). Those in South Dakota, Washington and California were of special importance, as may appear hereafter. In California six amendments passed the legislature, but only one was carried at the polls.

The *principle* of the Referendum is recognized in every election in which the people are asked to vote for candidates in reference to their proposed action upon the issues of the campaign; the theory is, that, in voting for candidates who stand for certain measures, the people render a decision upon those measures. The whole theory of our elections, therefore, is based on the right of the people to decide upon measures, tho the mixture of issues and the unreliability of candidates make the present method of carrying out the theory very imperfect.

secure and overwhelm the inanimate issue, the people could not have expressed their will on the said measures—they would have been obliged to endorse measures they did not want in order to elect the men they did want.

3. Laws passed by legislatures and councils are frequently rejected by the people. "Representation" does not represent; or, more precisely, *unguarded* representation frequently misrepresents. Legislation by final vote of the people's delegates cannot be relied upon to represent the people's will, but on the contrary, may be relied upon to fail in such representation in a large proportion of cases, even when the delegates are acting honestly, with the aim of carrying out the wishes of the people.

4. The action of the referendum is conservative. Changes not supported by strong reasons are voted down.

5. Complex measures and those not clearly understood are apt to be defeated.

6. Anything that involves a job or political trick, or is suspected of being tainted with corruption or injustice, is voted down on general principles.

7. There is an automatic self-disfranchisement of the unfit. The more intelligent and public spirited citizens take the trouble to understand the measures presented for decision and vote upon them. The ignorant voter and the bigoted partisan who constitute the curse of the ballot, sustaining corrupt machines and bosses and every political iniquity, are the very ones who ordinarily care least about a referendum vote. There are no offices or jobs to be won by it; no party success to be scored by it; what's the use of voting on it? Lack of interest, carelessness or lack of knowledge and a fear that they might vote in the dark against their interest eliminates their vote, to the great purification and elevation of the ballot. Referenda on the liquor and gambling questions are, of course, exceptions. The political slums do vote in such cases, but the civic enthusiasm and educational energy of the better citizens, in prospect of a clear-cut vote on such an issue, generally lifts the ballot almost or quite as much as the omission of the slum vote in ordinary cases.

8. It is clear that Direct Legislation is not only in entire accord with American feeling and history, but is deeply imbedded in our institutions. Both the principle and the practice of the referendum are familiar to our people, and its methods are not only in constant use in our system of law-making, but have a *monopoly* of a considerable space at each end of the scale of legislation that is under discussion,<sup>4</sup> and are *open to engagements at the option of the legislative authorities* at all intermediate points.

Direct Legislation is the sole method used at the top of the scale in making and amending state constitutions; and at the bottom of the scale in many states in the legislation of towns and school districts. In the intervening spaces, city, county and state legislation, the initiative or referendum or both may be put in practice whenever and wherever the legislators and councilmen so desire. The only difference is that at the ends of the scale the referendum is either compulsory or else the option rests with the people, whereas in general as to intermediate areas the referendum is not compulsory, and the option is not with the people, but with the legislators. Now it is an undoubted fact that looking at the matter in a broad way, the legislation at the two ends of the scale we are considering is vastly superior to the legislation in the intervening fields. Our constitution and the acts of our town and school district meetings are on the whole just, public-spirited, clear, concise, the pride of our jurists, historians and philosophers—incomparably the best legislation we have; while our statutes and the acts of our city councils are voluminous, complex, ambiguous, tainted with corruption and saturated with the spirit of private interest—a by-word all over the civilized world, so that government builders in Australia urge upon

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<sup>4</sup> I do not include national legislation. It seems to me that the safest and best plan is to extend the referendum to city and state legislation over a considerable portion of the country before we attempt to deal with the initiative and referendum in Federal affairs. It is best to solve the simpler problems first, that we may be better prepared to solve the more difficult ones. The city referendum is the key to the state referendum, and both will lay the foundation for the national referendum. The principles and arguments involved, however, are practically the same throughout, and experience, discussion and research in any department of Direct Legislation throws light on the whole question. Moreover, in the present condition of our law it is impossible to separate state and municipal government. These facts may explain to the reader the method of treatment adopted in this chapter.

their people the necessity of avoiding a reproduction of the American system; a disgrace to our civilization, a menace to our institutions. It would require a Swift or a Carlyle to find words to describe the botch work with which our statute books are annually disfigured, the inefficiency, confusion and corruption that have flowed from the *abuse* of the representative principle.

In the field where the referendum is compulsory, or at the option of the people there is little or no trouble; but in the field where this is not true there are legislative evils, the remedy for which is universally regarded as one of the greatest problems of the age. Is it not clear common sense to try in the middle areas the method that works well at both ends? Is it not worth while at least to try the experiment of using the successful method in place of the unsuccessful one? especially as the only change required is the very simple and obviously just and proper one of transferring the referendal option from the people's delegates to the people themselves, so that city and state enactments<sup>1</sup> may be brought within the rule that applies to town affairs and constitutional provisions, sweeping the whole extent of state and local legislation within the control of the beneficent principle of actual, continuous and effective popular sovereignty. In almost every state we have a solid stone road at each end of the legislative highway, with a treacherous bog in the middle. Shall we not build the stone road thru the bog, so we shall have, from end to end, a safe and solid roadway?

There can be no doubt about the answer that is due to these questions. The referendum has shown itself the best of all the legislative methods known to us, and it is the part of wisdom to extend its field of usefulness, and apply it to correct the abuses resulting from less efficient methods. If a farmer should find that a method in use in two of his fields produced far better results, with less expense, than the methods he used on the rest of his farm, he would be a fool — if he did not extend the use of that better method to all the fields he possessed to which the said method was reasonably applicable.

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<sup>1</sup> See last preceding note.

## THE MOVEMENT IN AMERICA.

*To Perfect the Representative System by Fuller Provisions  
for the Initiative and Referendum.*

## A.—ACCOMPLISHED FACTS.

That our people believe in real self-government and are not insensible to the benefits to be derived from an extension of the rights of effective petition for the enactment or submission of a law or ordinance, is shown by the splendid progress made in recent years toward a fuller provision for the use of the initiative and referendum.

1. San Francisco has adopted the initiative and referendum (on a 15 per cent. petition) in respect to all ordinances and amendments to the charter to which the people choose to apply them, and ordinances involving the grant of a franchise for the supply of light or water, or the lease or sale of any public utility or the purchase of land worth more than \$50,000, *must* be submitted to the people. (May, 1898. See Chapter III.)

2. Alameda, Buckley, Seattle and Blacksburg have also adopted Direct Legislation. The percentage for effective petition runs from five per cent. in Buckley (Washington) to 51 per cent. in Blacksburg (Virginia), which is a small place with a large idea of economy, the result being a plan for the initiative and referendum all in one, the petition being large enuf to carry the proposition without any separate referendum vote. This does not seem a wise plan. A moderate percentage of the citizenship ought certainly to have the right of bringing a matter before the people for decision by *secret* and *authentic* ballot.

3. Seattle, Washington, with 42,000 inhabitants, adopted the initiative and referendum by a strong popular vote. Five times the local bosses and aristocracy prevented the question from going to the people, but at last the long struggle was won. It takes 25 per cent. of the voters to exercise the initiative as the law now stands, but the beauty of a D. L. Law, even with a high percentage, is that it places it in the power of the people to reduce the percentage to 5 or 10 per



cent. whenever they see fit. It was probably a wise thing under the circumstances to begin with a high percentage, because a law framed in this way could be more easily carried, and the initiative once in the people's possession, they can amend the law and put the percentage wherever they choose.

4. The charter of Greater New York was submitted to the people for approval or rejection. The referendum principle, however, has not been given its due control *inside* the charter.

5. In five states municipalities have been given the right to adopt home-made charters by referendal vote, and in three of these states the popular initiative is provided for, Minnesota requiring only an 8 per cent. petition to frame a new charter and a 5 per cent. petition for the submission of an amendment to the charter. (See Chapter III, Comments on Table I.) In a sixth state, Ohio, a strong movement is on foot to obtain a constitutional amendment giving municipalities a right to frame their own charters on petition of 5 or 10 per cent. of the voters of the municipality. As Mayor Jones, of Toledo, and other prominent men are leading the movement, it is likely to be a success.

6. The municipal initiative in respect to street franchises and public ownership of public utilities has been recognized by several states in their recent legislation, and the referendum by many states. (Chapter III.)

7. It is coming more and more to be the custom, even in special legislative grants of franchises, etc., to insert a clause requiring submission of the matter to a vote of the people in the locality affected.

8. It has come to be the practically universal custom to require a municipal referendum on local bond issues, and other questions of indebtedness.

9. Nebraska passed a law in 1897 providing for municipal Direct Legislation on a 15 per cent. petition, or 20 per cent. if a special election is desired to determine the matter at issue. But only one special election can be held under this act in any one year unless the petitioners for it shall deposit with the city or village clerk a sum of money equal to the expense of such election.

The right to propose ordinances for the government of any city or other municipal division of the state may be exercised by 15 per cent. of the voters of such city or municipal division as well as by the mayor and councilmen or other governing authorities of the municipality. The petition must contain the full text of the proposed ordinance. If the mayor and council pass the proposed ordinance within thirty days after the petition is filed, the matter apparently does not go to the polls unless there is a petition for a referendum. If the council amend the proposed ordinance, both the original proposal and the amended ordinance go to the people.

No ordinance passed by the council, except an *urgency measure*, goes into effect till thirty days after its passage, and the voters by a 15 per cent. petition, filed with the city clerk within said thirty days, may demand a referendum on the ordinance at the next general election, or by a 20 per cent. petition they may require a special referendum, which must be held not less than fifteen nor more than twenty days after the filing of the petition. Ordinances relating to the immediate preservation of public peace or health or items of appropriation of money for current expenses, which do not exceed the corresponding appropriations of the preceding year shall, by unanimous yea and nay vote of the council and the approval of the mayor, be deemed to be *urgency measures*.

The law does not go into effect in any city until accepted by the voters thereof.<sup>1</sup>

This is a condensation of the chief provisions of the act. It is much longer and contains more detail than need be, and is by no means perfect in other ways. The 15 per cent. requirement is too high; it makes the use of the referendum too cumbersome and difficult. There is reason to believe, also, that in respect to some matters, such as ordinances involving important franchise grants, the referendum should be obligatory. Again the percentages and methods adapted to the

<sup>1</sup> Party lines were drawn to some extent in the vote on this Nebraska bill, the Republicans voting against it. This probably arose chiefly from the fact that the bill was introduced by their political opponents. One of the main causes of the strength of the measure was the support it received from the various labor organizations.

municipal initiative and referendum in one place may not be best in another place, wherefore it would have seemed wiser to authorize the adoption of the principle of Direct Legislation by any municipality, and let it make its own laws as to percentages and methods of carrying out the principle, subject, perhaps, to a few broad limitations, such as the obligatory *franchise* referendum and a *minimum* percentage, altho even these matters might safely be left to the municipality in most cases, if real home rule were bestowed upon it.

10. The Arizona Territorial Legislature in 1897 passed a municipal Direct Legislation bill applying to cities casting a vote between 600 and 1,000. Petitions must be signed by 30 per cent. of the legal voters of the city, of which signers one-half, at least, must be taxpayers. It is a clumsy law, and applies at present only to the city of Prescott, but it is a good entering wedge, and a territorial law may have great strategic value, because it requires the approval of Congress, and may be the means of bringing the subject of Direct Legislation to discussion and vote in Washington, thus drawing the attention and thought of the people to the matter in a new and vital way, and possibly securing the endorsement of the National Government for the Referendum Principle.

11. In November, 1898, the people of South Dakota adopted a constitutional amendment securing the initiative and referendum in state and municipal affairs.<sup>1</sup> A five per cent. petition is sufficient for either the initiative or referendum, and all measures passed by the people's representatives are subject to referendum petition except such laws as may be necessary for the immediate preservation of the public peace, health or safety, or support of the government and its existing public institutions.

The provision is brief, sweeping, strong; but lacks somewhat in definiteness. Note especially the failure to name any period between the passage of a law and its taking effect, during which a referendary petition may be filed. An ad-

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<sup>1</sup> The amendment was carried thru the legislature mainly by the Populists. It passed the Senate (1897) by a party vote, but in the House received the votes of all the Populists, six Republicans and two Democrats.

verse legislature granting a corrupt franchise or "railroading thru" a dangerous law might evade the referendum by making the petition period too short. The amendment says that the legislature shall "enact and submit" laws proposed by the people. It would be better to say that the Governor or Secretary of State shall submit proposed laws, unless enacted as proposed, in which case they should be subject to referendary petition, as in other cases. A Direct Legislation amendment should also state distinctly that the people may propose amendments to the state constitution or the city charter, and that no state enactment adopted by the people shall be repealed or amended by the legislature without submitting the matter to the people, and that no municipal enactment adopted by the citizens shall be altered or repealed by the city council or municipal authorities without a referendum.

12. The Oregon Legislature has passed a D. L. Constitutional amendment, which will be voted on at the polls in June, 1902. The law does not apply to municipalities, but only to state enactments.

The initiative requires an 8 per cent. petition filed with the secretary of state at least four months before the election at which the measure is to voted on.

The referendum may be ordered by the legislature, or may be demanded (except in *urgency* cases) by a 5 per cent. petition filed with the Secretary of State within 90 days after the final adjournment of the legislative assembly on whose action the referendum is sought. Laws necessary for the immediate preservation of the public peace, health or safety are *urgency* measures.

The vote in the legislature was overwhelming and absolutely non-partisan—43 ayes to 9 noes in the House, and 20 ayes to 8 noes in the Senate.\* It was introduced in the House by a Republican and in the Senate by a Populist, and not a man in either house attempted or suggested anything of a partisan nature in the discussion and passage of the bill.<sup>1</sup>

\* In 1901 the amendment was passed a second time with only one dissenting vote in a Republican legislature.

<sup>1</sup> Direct Legislation Record, Vol. VI, p. 1. Since this chapter was set up the Legislature of Utah has passed a D. L. amendment and the people have adopted it at the polls. See *infra* Appendix on "Legislative Forms."

## B.—EFFORTS.

In the last few years Direct Legislation amendments or laws have been introduced in almost every legislature in the country. In 1897 Direct Legislation measures were introduced in the Legislatures of Indiana, Ohio, Michigan, Wisconsin, North Carolina, Delaware, New Jersey, Maine, Massachusetts, Missouri, Minnesota, Iowa, Kansas, Nebraska, Colorado, Washington, Montana, Idaho, etc. It is said that "every state legislature west of the Mississippi, except, perhaps, Arkansas and Louisiana, had a Direct Legislation measure before it."<sup>1</sup> Before that amendments had been pushed in Massachusetts, New York, New Jersey, Illinois, Minnesota, Nebraska, Kansas, both Dakotas, Colorado, Montana, Idaho, Oregon, Washington, California, and perhaps elsewhere. In some states vigorous work has been done for the referendum at every opportunity since 1894. In a number of cases the measure has passed one House, and in some cases both Houses (but failed for lack of a 2-3 vote, or for some other reason), and in still other cases the bill came within a few votes of passing.<sup>2</sup>

In Washington a Direct Legislation amendment passed the House (1897) by a vote of 63 to 12. In Kansas an amendment drafted by Chief Justice Doster and Senator Young passed the Senate 29 to 10, and the House 76 to 42, the Republicans for the most part voting against it and the Democrats and Populists for it. It needed 8 more votes for the necessary two-thirds. The bill required 15 per cent. for effective petition. In Montana a Direct Legislation amendment passed the House 41 to 27—21 Populists, 19 Democrats and 1 Republican for it; 21 Democrats and 6 Republicans against it; defeated for lack of the needful two-thirds vote. The bill engrossed the attention of the legislature for 23 days, and held all other legislation in check until it was decided. The Hon. M. J. Elliott, who introduced the measure, says:

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<sup>1</sup> Direct Legislation Record, Vol. IV, p. 21; see also p. 6.

<sup>2</sup> Several D. L. bills were introduced in the '99 session of the Penn. Legislature. One of them was very generally and favorably commented on by the press of the state, but it died in committee. See Appendix, "Legislative Forms."



"It took the combined force of plutocracy among the Republicans and Democrats to defeat it." It called for 21 per cent. petitions, which is high, yet the law would open the way for the reduction of the percentage by a vote of the people on that point alone, disentangled from the claims of parties or candidates, or the pros and cons of other issues. Next year a bill is to be introduced with provisions for 10 per cent. petitions.

In 1894 the Hon. Richard W. Irwin, a leading Republican of Massachusetts, introduced a bill giving Direct Legislation to such cities as might accept the act. He secured the passage of the bill thru the House by a vote of 150 to 3, but it was lost in the Senate, altho Direct Legislation was advocated in every political platform in the State.

In New Jersey a Direct Legislation amendment came within 2 votes of a favorable issue. It was introduced in 1894 by the Hon. Thomas McEwan, the Republican leader of the House,<sup>1</sup> and was championed in the Senate by Mr. Adrian, the leader on the Democratic side and a former President of the Senate. The Legislature listened to addresses in favor of the amendment by Mr. J. L. Sullivan, the author; Samuel Gompers, President of the American Federation of Labor; Rev. H. D. Opdyke, representing the Farmers' Alliance; Samuel J. Sloane representing the Prohibitionists of the state, and other men of weight, including some of the officers of the National Direct Legislation League.

The Rev. Opdyke said in part:

"Make the Referendum the law of the state and a less number of officers will be needed to administer the government, and they will work at reduced salaries, to the relief of the taxpayers. . . . Pass this amendment and the licensed liquor traffic of the state will be swept out of existence as if struck by a western cyclone. . . . This is not a party measure. It is approved by all parties—Democrats, Republicans, Prohibitionists and Populists work together for it. . . . The people are determined to get the government back to themselves. It is an absolute necessity. . . . In conclusion let me say that as farmers we have never asked for much from the legislature, and the little we have asked

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<sup>1</sup> Mr. McEwan afterward went to Congress, and has introduced Direct Legislation resolutions into the last two Congresses and in the Republican National Convention of 1896, but his efforts have not received as much encouragement in these quarters as could be wished.

is not yet in sight. But the farmer demands the enactment of this measure. He wants to do some lawmaking himself, and you may rest assured that when the farmers, as well as the lawyers, become law-makers, we will have fewer laws but better government, less evil and more virtue."

Mr. Sloane said:

"We have submitted petitions in which there were thousands of names of the best citizens of our state, only to see these petitions laughed and scoffed at, smothered in committee, and in one instance thrown around the chamber from member to member, as a lot of school boys might pelt each other with paper snowballs. We have seen these so-called representatives covering under the lash of the bosses, doing the bidding of thieves in opposition to their own expressed sympathies and beliefs."

### C.—THE RISING TIDE OF THOUGHT.

The drift of public sentiment toward the extension of the initiative and referendum to city, state and ultimately to national legislation, is one of the most emphatic tendencies of our time.

Professor A. V. Dicey, of Oxford University, wrote on the Referendum in *The Nation* in 1886.

In 1888 Boyd Winchester, U. S. Minister to Switzerland, began to write about Swiss institutions.

In 1889 Professor Bernard Moses published an essay on "The Federal Government of Switzerland," and Sir Francis Adams' "Swiss Confederation" appeared the same year.

In 1890 the *Universal Review* contained an article on the Referendum, by E. A. Freeman, and W. D. McCrackan wrote a series of letters on the Initiative and Referendum for the New York Evening Post, and followed them with articles in the *Arena*, *Atlantic* and other periodicals, and with lectures in various places.

In 1891 Boyd Winchester's book, "The Swiss Republic," came out, and some of McCrackan's articles appeared in the *Arena*, etc.

In 1892 McCrackan's "Rise of the Swiss Republic" and J. W. Sullivan's "Direct Legislation thru the Initiative and Referendum" were published. Mr. Sullivan had been studying Direct Legislation for some years; had been to Switzerland in 1888 to study the subject in the home of its highest development. He began to write about it in the New York Times in 1889, and his book, published three years later, is undoubtedly the best popular statement of the subject yet made.

In 1894 Mr. Sullivan started the Direct Legislation Record, the editorship of which was afterward transferred to Mr. Eltweed Pomeroy, of Newark, N. J. The Record is beyond question the

finest publication devoted to one specific reform that has yet appeared in America.

The first Direct Legislation organization was formed in Newark in 1892. There is now a National Direct Legislation League, of which Mr. Pomeroy is president.

Such was the beginnings of effective thought on this subject in England and the United States. To-day it requires six or eight pages of small type to record the titles of the books and leading articles that have been published in this country on the subject of Direct Legislation. The popular movement began in 1892, with the publication of Mr. Sullivan's book, and has been greatly aided by Mr. Pomeroy's editorial work in the *Direct Legislation Record*, together with his extensive lecturing tours and skillful efforts to establish centers of Direct Legislation work in various parts of the nation, and to strengthen the National Direct Legislation League. To the work of these two men and the inherent sense and justice of their cause is largely due the fact that now, after less than six years of discussion, over three thousand newspapers and magazines favor Direct Legislation, and at least four millions of voters are ready to sanction its principles at the ballot box. With the single exception of the Public Ownership of Monopolies, no other progressive idea has had anything like so rapid a growth as this.

Those who have read this chapter from the beginning will realize (if they did not do so before) that there is nothing partisan about the referendum movement. Further proof of this is found in the fact that the measure has received strong support from the press of all shades of political partisanship—Republican, Democratic, Prohibition, Populist and Socialist. In some states it has been made a plank in the platform of every party in the state, and thruout the country numerous platforms—Republican, Democratic, Prohibition and Populistic—have declared in its favor. The National Convention of the People's Party at St. Louis in 1896 put a Direct Legislation plank in the platform and ordered the use of the initiative and referendum in the internal government of the party. A Direct Legislation plank has been adopted by the party in

every state where it has an organization, except in a few southern states. Democratic state conventions in Illinois, Michigan, Massachusetts, Minnesota, Nebraska, Ohio, California, Washington, Oregon and other states have adopted vigorous Direct Legislation planks, and a strong effort was made by William J. Bryan and other leaders to put it in the National Democratic platform, made at Chicago in 1896. It came within one vote in committee. One more progressive man would have put the heart and soul of Democracy into the Chicago platform. The Prohibition party has put a Direct Legislation plank into several of its state platforms, and might have adopted the one proposed for the National platform in 1896 if the Convention had not split on the money question before it got a chance to consider the Direct Legislation plank. The Republican party has adopted Direct Legislation in some of its state conventions, and it was urged by Congressman McEwan for the National platform in 1896, but failed of success. The Liberty Party, the Union Reform Party, the National Party, the Union Party, the Single Taxers and the Socialists have all declared in favor of the referendum. In England the Conservative Party has stated the referendum as one of its leading aims, and in Australia a powerful movement is on foot to secure the obligatory referendum in case of any deadlocks or legislative disagreement between the two Houses.<sup>1</sup>

Those of every party who believe in government by the people favor the extension of the referendum. So do those who see the irresistible drift toward democracy, and wish that the movement may be smooth and peaceful instead of harsh and explosive. Even far-sighted men of wealth and power without much philanthropy favor the referendum, because they understand that the people are more just and wisely conservative as well as more wisely progressive than the ordinary legislature, congress or parliament. Only the *short-sighted, reckless* plutocrats and politicians, and those who are

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<sup>1</sup> Senate Document, 340, 55th Congress, second session, July 8, 1898. Both in England and Australia the referendum is advocated by statesmen of the highest character and greatest eminence.

*unwilling to trust the people*, or do not wish them to govern themselves—only such oppose the referendum.

Among the supporters of Direct Legislation are such Republicans as John Wanamaker, Governor Pingree, Senator Irwin and Congressman McEwan; such Democrats as William J. Bryan and Geo. Fred. Williams; such Populists as Senator Marion Butler, Chief Justice Doster and Hon. Ignatius Donnelly; such Prohibitionists as Ex-Gov. St. John and John J. Woolley; such writers as Henry D. Lloyd, B. O. Flower, Prof. R. T. Ely, Prof. J. R. Commons, Prof. E. W. Bemis, Wm. Dean Howells and Charles M. Sheldon; such preachers as the Rev. B. Fay Mills, Dr. Lyman Abbott, Dr. George C. Lorrimer, Rev. Russell H. Conwell and Rev. Washington Gladden, and such leaders of labor as Samuel Gompers and Eugene V. Debs—organized labor is, in fact, almost a unit for Direct Legislation.

We have seen the Farmers' Alliance and Industrial Union with three million members, and the American Federation of Labor, nearly a million strong, stand shoulder to shoulder on this great issue, heartily endorsed by the farmers, and until December, 1894, the sole political demand of the Federation of Labor. The Knights of Labor, the Brotherhood of Locomotive Engineers, the order of Railway Conductors, and many other labor organizations favor Direct Legislation. A considerable number of trades unions use the initiative and referendum in their own affairs.

The movement is endorsed not only by a large part of the press<sup>1</sup> and by various political parties and labor organizations, but also by church conferences,<sup>2</sup> Christian Endeavor Societies, Epworth Leagues, Good Roads Associations and numerous other societies. And in private conversation, according to my experience, five out of six persons admit the fairness and desirability of Direct Legislation as soon as they understand what it means.

<sup>1</sup> It is estimated that "more than 3,000 newspapers and magazines are advocating direct legislation as a primary reform." A. A. Brown in *Arena*, Vol. 22, p. 98. The number stated amounts to about one-seventh of the total press of the country.

<sup>2</sup> *Direct Legislation Record*, 1896, p. 18.



Among the eminent men and women who have advocated the extension of Direct Legislation are the following:

Gov. Pingree, of Michigan.	William J. Bryan.
Rev. Washington Gladden.	Rev. Russell H. Conwell.
Mary A. Livermore.	Prof. John R. Commons.
Samuel Gompers.	Hon. Geo. Fred. Williams.
Hon. John Wanamaker.	Wm. Dean Howells.
Rev. Lyman Abbott.	Rev. B. Fay Mills.
Robert Blatchford.	B. O. Flower.
Lord Salisbury.	Prof. George D. Herron.
Edwin D. Mead.	Sir Francis Adams.
Henry D. Lloyd.	Arthur J. Balfour.
Rt. Rev. F. D. Huntington.	N. O. Nelson.
Rev. R. Heber Newton.	Rev. W. S. Rainsford.
John S. Crosby.	Gov. Thomas, Colorado.
Hon. C. C. Post.	Hon. Geo. E. McNeill.
Florence Kelly.	Pres. G. Droppers.
Pres. Thos. E. Will.	Prof. E. W. Bemis.
Ex-Gov. John P. St. John.	Hon. Robt. Treat Paine, Jr.
Gov. Lind, Minnesota.	Gov. Walcott, Mass.
Gov. Rogers, Washington.	Gov. Smith, Montana.
J. St. Loe Strachey.	Rev. W. D. P. Bliss.
Gov. Lee, South Dakota.	U. S. Sen. Marion Butler.
U. S. Senator Pettigrew.	Con. D. B. Henderson, Ia.
Dr. George A. Gates.	Dr. C. F. Taylor.
Lord Rosebury.	Hon. John G. Woolley.
Prof. Lecky.	Prof. Dicey.
Ex-Mayor McMurray, Denver.	Mayor Jones, Toledo.
Prof. George Gunton.	Prof. Helen Campbell.
Edward Bellamy.	Frances E. Willard.
Thomas Jefferson.	Abraham Lincoln.

Other eminent persons favorable to the extension of the referendum have been named in preceding paragraphs, and still others I know to be favorable, but have nothing definite in writing or print expressing their views.

It may be well to quote a few lines from some of the thinkers named in order to show how emphatic their attitude is and the grounds of their belief.

Wm. Dean Howells said in a letter to me dated May 22, 1897:

"I am altogether in favor of the Initiative and Referendum as the only means of allowing the people really to take part in making their laws and governing themselves."

A letter from Rev. Lyman Abbott contains these words:

"In my judgment the remedy for the evils of democracy is more democracy; a fresh appeal from the few to the many; from the managers to the people. I believe in the Referendum, and, within limits, the Initiative, because it is one form of this appeal from the few to the many."

The Hon John Wanamaker wrote me in August, '97:

"I heartily approve of the idea of giving the people a veto on corrupt legislation. The movement to secure for the people a more direct and immediate control over legislation shall have my support. I trust such a movement will receive the thoughtful attention of all who would improve our political and industrial conditions. I am willing to trust public questions to the intelligence and conscience of the people."

In July, '97, I received the following from Frances E. Willard, the great President of the World's Woman's Christian Temperance Union:

"I believe in Direct Legislation, and think it is so greatly needed that language cannot express the dire necessity under which we find ourselves. The reign of the people is the one thing my soul desires to see; the reign of the politician is a public ignominy. I also believe that Direct Legislation is certain to become the great political issue in the immediate future. The people are being educated by events. They are coming to see that there is no hope for reform under the existing system of voting."

The following is from a letter postmarked June 5, 1897, from Henry D. Lloyd, author of "Wealth Against Commonwealth" and "Labor Copartnership:"

"Direct Legislation—the Initiative and Referendum—must be supported by every believer in free government. . . . The people have carelessly allowed their delegates in party, corporation and government to become their rulers, and now they are awakening to the startling fact that the delegate has become their exploiter. *The people are losing control of their means of subsistence because they have lost control of their government*, the most powerful instrumentality for the creation and distribution of wealth in society. Its government must be recovered by the American people—

peaceably, if possible; but it must be recovered. Direct Legislation would be the ideal means for this peaceable revolution. If the revolution is to be accomplished otherwise, Direct Legislation will stand forth in the new order as the only means for expressing the popular will that a free people will exercise. No future republic will ever repeat the mistake of giving its delegates the opportunity to become its masters.”<sup>1</sup>

Wm. Jennings Bryan, the famous orator and Democratic leader says:

“Democracy is not merely a party name. Democracy has a meaning. Democracy means a government in which the people rule, and that is all we ask for. We are willing to submit any question that concerns the people of this country to the people themselves.”

“The principle of the initiative and referendum is democratic. It will not be opposed by any democrat who indorses the declaration of Jefferson, that the people are capable of self-government, nor will it be opposed by any republican who holds to Lincoln’s idea that this should be a government of the people, by the people and for the people.”

Samuel Gompers, President of the American Federation of Labor, with nearly a million members, writes these weighty words:

“All lovers of the human family, all who earnestly strive for political reform, economic justice, and social enfranchisement, must range themselves on the side of organized labor in this demand for Direct Legislation.”

Lord Salisbury, the great English statesman, prime minister and leader of the Conservative party of Great Britain, has said:

“I believe that nothing could oppose a bulwark to popular passion except an arrangement for deliberate and careful reference of any matter in dispute to the votes of the people, like the arrangements existing in the United States and Switzerland.”

The Rev. B. Fay Mills, the celebrated evangelist and eloquent preacher, writes:

“I will hold up both hands for the Initiative and Referendum. I sometimes think I agree with those who feel that this should be the next step in social reconstruction, as I certainly believe it will be productive of all others.”

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<sup>1</sup> These and other letters were loaned to President Pomeroy, and appear in Senate Document, 340, 55th Congress, second session, July 8, 1898.

Prof. Lecky, Conservative Member of Parliament and author of "Democracy and Liberty," "History of European Morals," etc., says:

"The referendum would have the immense advantage of disentangling issues, separating one great question from the many minor questions with which it may be mixed. Confused or blended issues are among the greatest political dangers of our time. . . . The experience of Switzerland and America shows that when the referendum takes root in a country it takes political questions, to an immense degree, out of the hands of the wire-pullers and makes it possible to decide them mainly, tho perhaps not wholly, on their merits, without producing a change of government or of party predominance."

Prof. George D. Herron says:

"Not the centralization but the diffusion of power is the safety of the present."

Dr. George A. Gates, President of Iowa College, writes:

"I have more confidence in Direct Legislation as a means of applying the principles of a true democracy to our public affairs than in any other movement before the public. Our American democracy is very democratic in form, but as matters now stand, very undemocratic in fact."

J. St. Loe Strachey, editor of the London Spectator, says:

"The man who refuses to agree on the referendum cannot be true to the essential principle of democratic government."

Andrew Jackson said in his inaugural:

"So far as the people can, with convenience, speak, it is safer for them to express their own will."

Governor Pingree strongly endorses the referendum principle, and in respect to important municipal franchises, would make the submission obligatory. In his message to the 40th Michigan Legislature, p. 28, he urges "the passage of an act making it requisite to the validity of a franchise in the streets of any municipality that the ordinance granting such rights shall be voted upon and approved by the citizens."

Professor Geo. Gunton, a New York editor and Republican defender of trusts and monopolies, yet a believer in good government, discussing the initiative and referendum of the San Francisco charter, says:

"Whether much use is made of this privilege or not, it will undoubtedly create among San Francisco's aldermen a livelier sense of the representative character of their office and a keener regard for the course of public opinion." And then, speculating upon the possible results of inaugurating such a system in New York city, he adds: "Extension of educational facilities and various public improvements could either be voted directly, or a club held over the head of the Administration and Municipal Assembly which would very materially stimulate progressive action on their part. Then, too, there would undoubtedly be fewer franchises granted for inadequate compensation, and fewer contracts let to political favorites if it were known that all such ordinances could be promptly vetoed by a plebiscite."

Hon. John G. Woolley, the great temperance orator, says:

"It ought to be possible for the people to order a plebiscite upon the liquor question or any question that seems great enuf to them. . . . The Initiative and Referendum would be dignified, conservative, simple, safe, powerful. . . . I am by instinct and training an adherent to the Hamiltonian idea of government, but my reason, my intelligence impels me to assent to Direct Legislation as necessary to the continuance of our free institutions."

Do not fail to note how constantly the opinions cited emphasize the idea that Direct Legislation is essential to self-government. That fact lies at the heart of the whole discussion. I have sometimes listened to men dispute about the referendum for half an hour or more, and then, when it was possible to get a word in edgewise, asked if they believed in self-government here in America, and on a favorable reply, which has rarely failed, I have said, "Well then you believe in the referendum, for it is nothing but self-government, and self-government is impossible without it. There may be difficulties in extending the referendum, as there usually are in any great advance, but remember they are difficulties with *self-government*; and if you really believe with the great mass of the American people that self-government is right and necessary for justice, safety, manhood, education and development, it is your duty to set about trying to overcome whatever difficulties you find in the way." I have yet to see the person who has any answer to make to this if the justice of self-government is once admitted, so manifest is it that the referendum and self-government are one and the same thing.



We have seen, in the early part of this chapter, that Thomas Jefferson believed in Direct Legislation (tho that expression was then unknown), and tried to get it into the Virginia constitution. Some paragraphs from his writings will show how strong was his feeling:

"Governments are republican only in proportion as they embody the will of the people and execute it. . . . Were I to assign to this term (a republic) a precise and definite idea, I would say, purely and simply it means a government by its citizens in mass, acting directly and personally according to rules established by the majority, and that every other government is more or less republican in proportion as it has in its composition more or less of this ingredient of the direct action of the citizens. . . . The further the departure from direct and constant control by the citizens, the less has the government of the ingredient of republicanism. . . . And believing, as I do, that the mass of the citizens is the safest depository of their rights, and especially that the evils flowing from the duperies of the people are less injurious than those from the egotism of their agents, I am a friend to that composition of government which has in it the most of this ingredient. . . . An elective despotism was not the government we fought for."

Abraham Lincoln was also a believer in the principle of Direct Legislation, and sought to put it in practice to settle one of the most momentous questions in our history. His famous phrase, "a government of the people, by the people, and for the people," is an exact definition of a system based upon and effectively controlled by Direct Legislation, and it will not harmonize with any other system.

In 1854 Mr. Lincoln said at Peoria, "According to our ancient faith, the just powers of government are derived from the consent of the governed. \* \* \* Allow all the governed an equal voice in the government, and that and that only is self-government."

Early in the war Lincoln made an effort to secure an arrangement that would terminate hostilities and settle the questions of union or disunion and slavery or no slavery by means of a direct vote of the whole people. Gentlemen were sent to talk with the President and Secretary of the Confederacy to see if an agreement could be made to go to the people with two propositions—peace with disunion and confederate

independence as the southern proposition—and peace with union, emancipation, no confiscation, and universal amnesty as the northern proposition; the citizens of all the states north and south to vote “yes” or “no” on these two propositions at a special election, both governments to hold themselves bound by the result of the vote. If such an agreement had been made it is probable that union and emancipation would have been secured without further strife. A large number of citizens even in the south were Union men, and perhaps the high probability of a Union majority in the referendum was what influenced Pres. Davis to refuse to entertain the proposal for a settlement by ballot—a Union majority would mean the collapse of his Presidency.<sup>1</sup>

### THE REFERENDUM MOVEMENT

*Part of a World Movement toward Liberty, Peace and Democracy.*

A little more than a hundred years ago every nation in the civilized world was under an absolute aristocracy. There were some gleams of freedom in England—she had her Magna Charta and Bill of Rights and her House of Commons, but the suffrage was exceedingly limited and the distribution of representation outrageously unjust, the majority of seats in the House being controlled by a few nobles and men of wealth. Only in local affairs did the principles of self-government find anything like adequate expression.

Transplanted in America local self-government and the fundamentals of the Magna Charta and the Bill of Rights grew into the ideal of *complete* self-government. England trod upon this ideal, and it took up arms and drove the monarchy out of the colonies.

Voltaire and Rousseau stirred the mind and heart of Europe. English thought, transformed and glorified in the flames of our Revolution, was taken to France by Franklin, Paine and Lafayette, and by the French soldiers returning from America. France took fire, and the French Revolution burned up the Bourbon throne.

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<sup>1</sup> See the full story by Edmund Kirke in the *Atlantic*, September, 1864. See also Senate Document, 340, July 8, 1898, p. 86.

Napoleon's armies shook every throne on the continent, overturned the most of them, put plebians in imperial places, annihilated the "Divine Right of Kings" and scattered the seeds of democratic thought all over Europe. The soldiers of the Allies returned from France talking of freedom and popular government. The printing press fed the new thought, and the students in the universities were full of English, American and French ideas of liberty. The French revolution was smothered, but only for a moment. It burst out again and again, not only in France, but in Italy, Austria, Germany, Spain and other countries. Kings and Emperors granted constitutions to appease the people. England reformed her representative system, greatly extended the suffrage, passed splendid secret ballot and civil service laws, and took effective measures against corrupt practices in elections. America built a republic, with government by the people in town affairs and constitution making, and for the rest a mixture of government by delegates with government by the people. And Switzerland evolved a republic based on the idea of government *by the people* with the *aid* of representatives.

A century full of tremendous movement in the direction of democracy: 1775 all absolute monarchy or aristocracy; 1875 not an absolute government in America or Europe except in Russia and Turkey; all the rest on the high ground of constitutional government with representative houses and wide suffrage, or still further up the slope where kings and nobles entirely vanish, with a few almost at the top, where the people's will is sovereign all the time. *From absolute king to sovereign people—from one to all—that is the fundamental movement of the age*; and do you think it will stop part way? Will forces that the kings and emperors and aristocracies of Europe have not been able to resist be held in check by a few politicians and plutocrats? Not if the people continue to think. Not if the press and the school can be kept from the schemers' control. If the movement towards democracy does not stop—if the evolution of equality in government does not cease, Direct Legislation must come. It *has* come in Switzerland and to a large extent in America, is used to some

extent in England and France, is vigorously demanded in New Zealand and Australia, and is bound to come here and in every other country where the trend to democracy is strong, because there is no other way in which the rule of the few can be entirely supplanted by the rule of the many.

The diffusion of power is the mightiest idea that is moulding the world to-day, except the principles of love, justice and brotherhood from which it is a corollary. Direct Legislation has an inevitable part to play in the progress toward diffusion of power, and is therefore sanctioned and necessitated by the principles from which the ideal of diffusion is derived.

Direct Legislation aiding diffusion will help the cause of peace as well as the cause of liberty and democracy. Since the dark ages very few wars have been brought about by the common people. The reason the world is still drenched with blood every few years is that the men who decide on war are not, as a rule, the ones who do the fighting or suffer the losses of the conflict. If the men who voted war had to stop the bullets and pay the taxes, arbitration would soon replace battle. If conciliatory proposals could be suggested by initiative of the people as well as by the President and Congress; if international commissioners carefully discussed and adjusted differences, subject to a referendum, either compulsory or on petition of the common people in each disputing country, instead of being subject to approval or rejection by a hot-headed Congress, that sees in war perhaps a chance for glory, profit, conquest, or political capital; if an appeal from the government to the people were possible in every case of war, except where immediate action in self-defence were necessary—in short, if the final decision lay with the *people* on both sides of the line, wars would be few and far between. If the good Czar wants to bring about the disarmament of Europe, he cannot do better than work for the Initiative and Referendum. So long as he works with the governments he is dealing with men whose power and pride and interests of every sort are largely bound up with the military; but give full power to the common people and war would become a lost art in the civilized world.

## THE PRACTICAL DETAILS.

There are several methods of providing for the proposal of measures by the people, and the reference of enactments to them for approval or rejection. The most effective means of securing full rights of initiative and referendum is a constitutional amendment. If the provision is only a statute the legislature may repeal it at any time when they have a law on hand which they do not wish to submit to the people. A statute right, however, may do much good, and, if long enjoyed, will be certain to develop a sentiment that will not only make its permanent repeal impossible, but will inevitably lead to constitutional guaranty. The following analysis may serve to suggest some of the leading points that should be covered by a Direct Legislation amendment or statute. Provisions amounting to a new method of amending the constitution or involving any changes therein would of course be invalid in a mere statute—the legislature cannot change the constitution; such provisions could only be effective in a constitutional amendment, and if incorporated in a statute might render it void in toto.

## ANALYSIS OF DIRECT LEGISLATION LAW OR AMENDMENT.

*The percentages refer to the vote at the last preceding election.*

*Initiative.*—Five per cent. of the voters of a city (or state) may propose an ordinance (or law) or amendment to the charter (or constitution) by imperative petition (containing the proposed measure) filed with the city clerk (or Secretary of State).

Said official shall publish such proposal at once and submit it to the people at the next city (or state) election occurring 20 (or 40) days after the said filing, unless it is adopted by the councils (or legislature) 50 (or 130) days before said election, in which case it shall be subject to the referendum.

A special election may be ordered by a 15 per cent. petition, or at the discretion of councils (or legislature) or of the mayor (or Governor).

*Referendum.*—All measures proposed by the people, and all enactments of councils (or legislature), except urgency measures, shall be subject to the referendum.



Five per cent. of the voters of a city (or state) may demand a referendum.<sup>1</sup>

The mayor (or Governor) or one-third of either council (or House) may order a referendum.

Urgency measures are those necessary for public health, peace or safety, passed by a two-thirds or three-fourths vote of councils (or legislature).

Other enactments shall be in abeyance for 30 (or 90) days after passage by councils (or legislature) and publication. If within that time a referendum petition is filed with the city clerk (or Secretary of State), the said official shall submit such measure to the people for final decision at the next city (or state) election, as above.

A special election may be ordered as above. (See Initiative.)

If no referendum petition is filed within said time, the measure takes effect under the same conditions as at present.

Franchise and monopoly grants and contracts with monopolies *must* be submitted to the people.

A measure rejected by the people cannot be again proposed the same year by less than 20 per cent. of the voters, nor re-enacted in councils (or legislature) except by a two-thirds vote, and in such case *must* go to the polls, whether there is a referendum petition or not.

A measure once approved by the people cannot be altered or repealed *without a referendum*.

When a law is declared unconstitutional, the Governor or the legislature may, and on a 15 per cent. petition shall submit the law to the people, and if approved by them it shall thereafter be law, notwithstanding said decision. (This amounts to a new means of amending the constitution.)

How far the referendum or reference to the people should be made obligatory is a very important question. The direct citizen vote is already obligatory in respect to constitutional amendments and the affairs of towns under the New England

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<sup>1</sup> Five per cent. is by some considered too large when applied to populous cities or states, as 5 per cent. of a very large voting population would place too great a difficulty in the way. It is proposed that a definite number be fixed, as 3,000 for a city or 10,000 for a state, or 5 per cent. when such definite numbers would exceed 5 per cent. The following is a good wording: "Three thousand voters, or a number equal to 5 per cent. of the total of votes cast at the last preceding election, if such percentage is less than 3,000." Or in case of a state "Ten thousand voters or a number equal to 5 per cent. of the total votes cast at the last preceding election, if such percentage yields a number less than 10,000." This option would require 5 per cent. unless such 5 per cent. would amount to more than 3,000 in case of a city, or 10,000 in case of a state. Whichever was least in any case, the 5 per cent. or the fixed number, would govern that case. Five per cent. of a small voting population would be easy to secure; in a large voting population the above mentioned option would be desirable.

system; and in a number of states a citizen vote is necessary to certain franchise grants, public purchases, bond issues, etc. In several of the Swiss cantons the law exempts urgency measures, leaves transactions that do not go beyond established routine to take effect if not objected to, and in all other cases requires the submission of each and every legislative act to the people as a matter of course and without any referendum petition.

Matters of routine may be defined as including appropriations, purchases, contracts and other acts that are substantially the same as in the preceding year. It might be well to put routine measures with urgency measures as exempt even from the optional referendum, leaving them subject to control thru the initiative. But however that may be, they ought clearly to be exempt from the obligatory referendum.

It seems probable that ultimately the obligatory referendum will be found the better form for several reasons:

1. It saves the trouble and expense of a double appeal to the people, once on the petition and once on the ballot. It has been found in Switzerland that the optional referendum sometimes remains useless because the voters, wishing to invoke its aid, cannot afford to bear the cost, so the law to which they are opposed remains unchallenged and goes into effect without a verdict of the people.

2. The obligatory referendum does not play informer—does not require the disclosure of opinions, but affords the voters all the protection of the secret ballot. The optional referendum puts the petition signers on record and makes their opinions known, therefore it does not close the door so completely as the obligatory referendum to improper legislation that is supported by powerful employers and corporations against whose influence employees and others dare not act openly for fear of discharge, or loss of business, blacklist, boycott, etc.

It is often the case that citizens who oppose an unjust enactment and would vote against it at the polls, are, nevertheless, afraid to record an adverse opinion by open petition, and others, tho not exactly afraid to avow themselves, yet deem

it wisest for business or social reasons to keep their ideas to themselves.

3. The mere *inertia* of the people permits some things to pass that are objectionable, but not sufficiently so to awaken an energetic protest; so that designing legislators are encouraged to act on the possibility that bad laws adroitly worded may go thru unnoted by the people, or at least escape the requisite petition till the 30 or 90 days are up. The Optional Plan leaves a somewhat wider way to improper laws than the other, and holds out a slight hope to corruption; an exceedingly small one, of course, for the chance of success is a desperate one for an evil law with the Referendum in either form, but hope enuf perhaps to invite the attempt sometimes when it would not be thought of under the Obligatory System, by which the chance of success is reduced almost to absolute zero.

In all probability, however, notwithstanding the ultimate advantages of the obligatory plan, it will be best to begin with the optional referendum (except as to street franchises, and dealings with corporations and monopolies), the reasons being: (1) That during the transition from present methods to Direct Legislation there would be a volume of business that might prove burdensome under the obligatory system, and (2) That the optional form provides an intermediate step, permits a more gradual change to the new system and allows the people time to become more accustomed to the use of Direct Legislation before they enter upon the full privileges and responsibilities of the obligatory referendum.

Either the Optional or the Obligatory Referendum, together with the initiative, will make our legislative system consistent thruout, and bring all parts of it into harmony with the fundamental principles of liberty, self-government, democracy and popular sovereignty, which it claims to regard as the essential principles of true government, and to which it professes an earnest desire to conform. The right to propose or initiate a city or state measure is like the right of a citizen in town-meeting to make a motion upon any matter of business to be acted upon by the meeting, and the right

of ten citizens to have any subject they choose inserted in the warrant for action by the town; the right to demand a vote at the polls on a given law, corresponds to the right of a citizen in town-meeting to call for the ayes or noes; and the obligatory referendum corresponds to the rule which requires the plans and proposals of town officers and committees, and all motions made at town-meetings to be put to a vote of all the citizens who care to express themselves, whether a vote is asked for or not.

It must be remembered that the Referendum, in its strict sense, is merely *preventive*, whereas the Initiative and Referendum together give the people the means of *construction* as well as the means of *prevention*.

The word Referendum, however, is frequently used as synonymous with Direct Legislation, including both the proposal of laws by the voters and the reference of laws to them.

## REASONS FOR THE REFERENDUM.

### THE DOORWAY OF REFORM.

1. *It is the key to progress. It will open the door to all other reforms.* It is not the people who defeat reform. The people want honest government, civil service reform and just taxation. They vote overwhelmingly against monopoly rule and for public ownership of street franchises and public utilities almost every time they have the opportunity. It is the power of money and corporate influence and official interest that checkmates progress.<sup>1</sup> Miles of petitions have gone in to Congress for a postal telegraph. By the million our people have expressed the wish for such an institution, and Hon. John Wanamaker says in his very able argument on the subject, that the Western Union is the only visible opponent of the movement. It is enuf, however, for it has more weight with Congress where its interests are touched than all the 75 millions of "common" people in the country. But if those

<sup>1</sup> In Switzerland direct legislation has defeated the monopolies, abolished the lobby, destroyed political corruption, undermined partisanship, and established proportional representation, progressive taxation, home-rule in local government, and public ownership and control of railroads, telegraphs, telephone and express service. (See below under Experience.)

"common" people made the law, the Western Union would weigh several tons less, and the nation would own the telegraph in a very short time. Postal savings banks, progressive income and inheritance taxes and popular election of U. S. Senators would probably be adopted by vast majorities if submitted separately to popular vote, and perhaps a referendum might even give the Filipinos their freedom. Freehold charter laws, civil service acts, proportional representation, efficient corrupt practices acts, local option and state dispensary systems, etc., would be adopted in many States, and city after city would get its government and its streets out of the hands of politicians and monopolists. Philadelphia would not have been robbed of her gas works if she had had the referendum, but would have improved them and kept them in good condition for the serving of the people. Her water supply would have been enlarged and purified instead of being left to distribute filth and disease in order that councils might have a plausible excuse to sell the works some day to a syndicate of greedy capitalists. Boston might be lighting her public buildings and streets and supplying electricity to her citizens at half the private company's charges if the people had had the referendum to keep the aldermen and the legislature from killing all measures of relief. Boston, New York and Philadelphia would not have been worsted in their battles with the street railways. Detroit and Chicago could have won their victories with a fraction of the cost in time and money that has been required to fight the league of railway corporations and legislative authorities.

Hundreds of instances might be named in which councils, legislatures and congresses have persistently defeated the well-known will of the people. It is not sufficient now to educate the people to a new idea, or even to elect representatives on the promise to carry it into execution; you have also to fight the power of money and corruption in the legislature that will steal away or put to sleep the ardor of your legislators.

How important it is that progress should rest with the people free of hindrance from their rulers is clearly brought out in this fine passage from the great historian, Buckle:



"No great political improvement, no great reform, either legislative or executive, has ever been originated in any country by its rulers. The first suggesters of such steps have invariably been bold and able thinkers, who discern the abuse and denounce it and point out how it is to be remedied. But long after this is done, even the most enlightened governments continue to uphold the abuse and reject the remedy."

Wendell Phillips said:

"No reform, moral or intellectual, ever came from the upper classes of society. Each and all came from the protest of the martyr and the victim. The emancipation of the working people must be achieved by the working people themselves."

The Referendum is the key that will unlock the door to every onward movement. It will give us new reforms as fast as the people want them, without the necessity of waiting till the millionaires and politicians are ready for the curtain to go up. In this great fact lies the tremendous and immediate importance of the Referendum, altho it is by no means the only irresistible reason for favoring the movement.

Direct Legislation will give the people the power of voluntary movement; it will bring the public mind into connection with the motor muscles of the body politic; it will gear the power of public sentiment directly and effectively to the machinery of legislation, with no slipping belts, switched off currents or broken circuits.

At present the pocket nerve and the corporation ganglion are frequently able to paralyze the progressive muscles and the civic conscience and control the body politic, and the party ganglia compel it to remain inactive, or else go to enormous labor and perform a large number of actions that are against its wish in order to accomplish a few things it desires—as tho a man were obliged to lift a fifty or hundred pound spoon to his lips with each sip of soup and endure the pricks of several pins and needles or sit down on a tack with each mouthful of bread or fragment of beef, the bill of fare being written with those conditions to be accepted or rejected as a whole, like the conglomerate platforms of our parties.

The separation of measures accompanying Direct Legislation is another thing that makes it par excellence the friend

of progress. Each reform will receive as a rule the full support of all who believe in it without suffering from the alienation and subtraction of the votes of citizens who *favor it* but *oppose some other measure* with which it may be linked in the platform, or object to the *party* in whose platform the reform is suggested or dislike the *candidate* whose name is tied to the movement and whose election is the only means of securing its success.

#### PURE GOVERNMENT.

2. *Direct Legislation will tend to the purification of politics and the elevation of government.* It is not the people who put up jobs on themselves, but corrupt influences in our legislative bodies; the Referendum will kill the corrupt lobby and close the doors against fraudulent legislation. It will no longer pay to buy a franchise from the aldermen, because the aldermen cannot settle the matter; the people have the final decision, and they are so many that it might cost more to buy their votes for the franchise than the privilege is worth. It is comparatively easy for a wealthy briber to put his bids high enuf to overcome the conscience or other resistance of a dozen councilmen. It is quite a different matter to overcome the consciences or other resistance of ten thousand or a hundred thousand citizens. *Legislative bribery derives its power from the CONCENTRATION OF TEMPTATION resulting from the power of a few legislators to take FINAL action.*

The Broadway Surface Railway Company paid aldermen \$20,000 apiece for the Broadway franchise steal, which cost the company in bribes and lobby expenses about \$500,000; but how much would it have cost to buy up a referendum vote in the city?

The Philadelphia councils submitted the question of bonding the city for \$12,200,000, to be used for a variety of public improvements (November, 1897), but they refused to submit to the people the question of leasing the city's gas works to the United Gas Improvement Company (which already

owns the gas works in over 30 cities), altho the people demanded a referendum with indignant vehemence. The *Inquirer* had a referendum vote taken in the Twenty-eighth ward, with ballot boxes and regular printed ballots, just before the lease, and the vote was 32 in favor and 2583 against it—81 to 1 against the action of the councils. There is no doubt that a vote in other parts of the city would have gone overwhelmingly against the councils. "The Progressive Age," a leading organ of the gas interests, in its issue of January 15, 1898, admitted that the people would have voted against a lease, and that "it was artificial pressure which effected the result." Commenting on this case "City and State," of Philadelphia, said: "The refusal to permit the owners of a great property (which is valued approximately at \$30,000,000) to say whether they shall part with it or keep it is worthy of the severest condemnation." "Bribed by the rich to rob the poor," said the Hon. Wayne MacVeagh. The poor thieves in legislature and council bought by the rich thieves in the corporations, to give away the property of a million people that has been entrusted in their care.

Such cases show with tremendous emphasis that it will not do to leave the referendum option with the legislators. They submit questions that are immaterial to them or in respect to which they wish to act honestly; but they never submit a franchise steal to the people. When they are acting from honest motives they often find the referendum very helpful in coming to a wise and just conclusion; but when they are acting from corrupt and selfish motives they have no use for the referendum.

The reader will remember that in examining the facts relating to the use of the Referendum in the United States, we found that the people have voted down all propositions that were suspected of being accessory to any job, and the strenuous opposition of the corruptionists to the extension of the Referendum shows that they appreciate its power for purity. They know very well that corporation frauds could not go on, and that valuable gas, electric light and street railway franchises would no longer be given to lobbying corporations if we had the Referendum.

When the Reading Road was asking for special terminal privileges in Philadelphia at Twelfth and Market streets, the company put \$5,000 at the service of each member of the select council, and a noted political boss, who was in the council at the time and had large influence there, told a prominent lawyer of my acquaintance that there were only three councilmen who refused the money, and that he (the boss) was not one of the three.

I am told that in Massachusetts legislators at the state house can be bought for \$250 a vote on important measures. It is said that in Washington State ordinary legislation can be purchased at \$200 a head. A few years ago a member of the Albany legislature told an intimate friend of mine that two-thirds of the legislature had taken bribes, and it was doubtful if many of the other third would resist in case of strong pressure. I am told by Peoples' Party men that, in the Legislatures of some Western States, Populist members can be bought for \$20 a vote and other members for \$10 a vote. A member of the Michigan legislature resigned because he could not put up with the continual strain on his morals, and his successor told him that he made \$16,000 out of his first session on a salary of \$300 a session.

A legislator may be subjected to successful pressure by street railways, gas and electric light companies, the railroads, the oil-trust, or the coal combine, but the *citizens* are too numerous, too much interested in their own pocket-books and too wide awake to their own welfare to be wheedled or bribed or threatened into giving away their property, or endowing big corporations with privileges and powers to be used to the disadvantage and oppression of the donors. As Professor Bryce says, "The legislators can be 'got at;' the people cannot."

Prof. Bemis tells of a corporation voting \$100,000 to buy the Chicago council as calmly as it would vote to buy a new building, and says that, according to a reliable attorney, such a proceeding is an ordinary thing. Under the Referendum such proceedings would not take place because they would be of no use. The Referendum destroys the power of legislators to legislate for personal ends.

The lobby exists mainly to get from the legislature private advantages which the people would never grant, because such advantages are against the interests of the people. You may find it quite easy to offer ten men or a hundred men enuf to overcome their interest in good government according to their perverted standards of value, but you would find it very difficult and very costly to buy half a city full of men to vote against the public interests. In a state or national vote the lobbyists' problem would be more gigantic still. Imagine Oakes Ames travelling all over the United States bribing men with stock to vote for a big Pacific steal! It would take more stock than the road would ever own, even if it had as much water in its capitalization as lies in the broad bed of the Pacific Ocean. If a million citizens owning a city or state entrust their business to 100 agents, and you wish to acquire a million dollar franchise for nothing, or obtain a contract that will give you a million more than the fair value of the work you do under it, you may be able to persuade 51 of the agents to vote the contract or franchise to you, but it would be a very different undertaking to persuade 500,000 people to vote you the booty. You could give each agent of the 51 an "inducement" of five to ten thousand dollars and still have one-half or three-fourths of a million of the plunder left for yourself, but to buy the people at the same rates would cost you two and a half to five billions, or several thousand times as much as the whole steal would come to; and instead of being a gainer you would be some billions out of pocket. In order to buy the people and have half the plunder left you would have to reduce your "commissions" from \$10,000 apiece to \$1 a head. *The Referendum would infinitely dilute the power of bribery* in procuring legislation, and correspondingly weaken the motive for it. It is one thing to say to a few agents, "Help me steal a fortune from the people and I will give you a big slice of it," and quite another thing to say to the people, "Permit me to take a fortune from *yourselves* and I will give back a few cents of it to each of you."

The Referendum will be the death of the lobby. It will be impracticable to lobby the people because of their number.



And it will be useless to lobby the legislators for they cannot deliver the goods.<sup>1</sup>

No doubt persuasion will still be used with legislators as the first and easiest method of initiating legislation, but the lack of finality in the action of legislative bodies will take away its commercial value, and the Lobby or "Third House" as it exists to-day will dissolve. Log-rolling and minority obstruction will also lose their power, and dishonest men will be much less likely to buy legislative positions and other offices, because they cannot make them pay. Where would Tweed have been with the referendum in full play? Where would Quay be now if the people had the referendum on the United States Senatorship?

*Blackmailing* will be destroyed as well as the corrupting power of the lobby. The Referendum works both ways; it

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<sup>1</sup> Mr. S. E. Moffett says in his *Suggestions on Government*: "That every man has his price is too hard a saying; but that the great majority of men have their price is the simple truth. When votes are quoted at \$2 apiece from 5 to 10 per cent. of the voters of a state can be bought. Ten dollars apiece would buy, perhaps, 20 per cent.; \$100 apiece would buy 50 per cent, and if the price was raised to \$100,000 each, it is doubtful whether one voter out of twenty in any state of the Union could resist the temptation. Now, it often happens that the enactment or defeat of certain legislation is important enuf to rich corporations to make it worth their while to offer \$100,000 each, if necessary, for the assistance of a few members of Congress or of a State Legislature; but it would be impossible for any corporation to offer \$100 apiece to a majority of the voters of the United States; and practically impossible to make such an offer to the majority of the voters of an average state.

"There are other ways, too, in which the private interests of legislators are made to influence their public action. The Congressional silver pool, at the time of the passage of the Sherman law of 1890, and the Senatorial speculation in sugar stock during the manipulation of the Wilson tariff bill in the Finance Committee, became national scandals. Every great railroad whose interests are affected by legislation has its attorneys in Congress or in the State Legislatures. The presidents and chief stockholders of important corporations have held seats in the Senate and openly spoken and voted in behalf of their private interests without betraying a thought of impropriety.

"It is said that the true remedy for these evils is to elect good men to office. The advocates of this happy and original idea will have everything their own way when they show us two things: First, how to insure the election of good men; and, second, how to *keep* them good after they are elected. It is useless to expect representatives to be very much better than the people they represent. It is as much as we can reasonably look for if they are no worse. A system of government whose satisfactory operation requires the continual election of archangels to office is not a practicable working system. To have a really stable fabric of government we must base it upon enlightened self-interest. As Mill puts it:

"The ideally perfect constitution of a public office is that in which the interest of the functionary is entirely coincident with his duty."

"Now, the self-interest of the average man, acting as one of the mass of voters, lies in the direction of good and honest government. It is worth more to him to have cheap sugar, pure water and safe, rapid, cheap and comfortable transportation than to accept 50 cents from the sugar trust, a dollar from a water company and \$2 from a railroad, to be cheated, poisoned, jostled and belated, with the prospects of being eventually flattened out or burned alive in a wreck. But the average man in the place of a legislator would certainly succumb to the same influences that corrupt the politician."

keeps the corporations from using the legislature for their private gain, and it also keeps the legislators from blackmailing the corporations by introducing bills injurious to them, so that they will offer large sums to have the bills quashed—a shameful practice prevailing to a large extent in some of our legislative bodies.

The unguarded representative system, or delegation of uncontrolled law making power to a small body of legislators, has utterly failed to check class legislation, or the growth of monopoly and corruption. On the contrary, these evils have increased in city and state where the delegate system has control, whereas in town affairs and constitution making, and city business so far as referred to and controlled by the people, the said evils are comparatively unknown. This contrast vividly illustrates the power for purity that Direct Legislation possesses.

As we shall see below, the force of partisanship will diminish by the referendum. Party success will no longer mean power to mould the laws of a city or state for one or more years. And the intensity of party feeling will diminish as the value of the prize to be won is lessened. The weakening of partisanship will react on the executive department, and the spoils system will have less hold on the government even before civil service regulations are thoroly formed and enforced.

As we have seen, the obligatory referendum would be most effective in checking corruption; but even the optional referendum will make corrupt legislation a dangerous and unprofitable thing. The mere fact that the right of appeal to the people exists within the reach of a reasonable percentage of voters will purify legislation at its source. (See Professor Gunton's remarks above quoted.)

The Initiative and Referendum will destroy the private monopoly of law making. The public ownership of monopolies will destroy the chief corruption fund. Civil service reform and effective corrupt practices acts will also make for purity. Proper restriction of immigration and thoro educational measures can hardly fail to follow close upon the referendum.

And the force of these six measures will gradually eliminate corruption from government. As politics grow purer the rascals will leave the field and nobler men will enter it, thus hastening the upward movement.

3. *Demagoguery and the influence of employers over the votes of their employees will be diminished factors in elections.* When the question is voting an office to A or to B, one as good as the other for all the voter knows, a two-dollar bill or the wish of his employer may seem to the voter to be worth more than the problematical difference between the two candidates, for whatever their platforms and promises there is little possibility of telling what they will do when elected.<sup>1</sup> But when the question comes directly home to the self-interest of the voter, on a bill to give away public property, or franchises, or make an extravagant contract, etc., the voter will use the protection of the secret ballot and record his opinion, regardless of two-dollar bills or the wishes of employers.

The Bay State Gas Company of Boston found no difficulty in managing the councils, but if the public ownership of gas works were put to a vote of the people, the Bay State would be almost a cipher in the ballot. If the municipalization of the street car lines were put to vote I believe that even the employees of the roads would neglect to obey the voting orders from headquarters, and cast their ballots almost to a man for the change. Even the ignorant voter will be rescued by the Referendum to some extent. The demagogue and politician will lose a large part of their power to prejudice and confuse when the issue is a single, clear-cut question of money, property or public policy, instead of the present entanglement of measures and men tossed together in a confused heap for

<sup>1</sup> Carlyle says: "What is it to the ragged, grimy freeman of a 10-pound franchise borough, whether Aristides Rigmarole, Esq., of the Destructive party, or the Hon. Alcides Dolittle, of the Conservative party, be sent to Parliament; much more, whether the two-thousandth part of them be sent, for that is the amount of his faculty in it. Destructive or Conservative, what will either of them destroy or conserve of vital moment to this freeman? Has he found either of them care, at bottom, a six-pence for him or his interests, or those of his class or of his cause, or of any class or cause that is of much value to God or to man? Rigmarole and Dolittle have alike cared for themselves hitherto, and for their own clique and self-concocted crochets, their greasy, dishonest interests of pudding or windy, dishonest interests of praise, and not very perceptibly for any other interest whatever."

the express purpose, one might think, of affording demagogues their golden opportunity to prejudice men against the whole "heap" by centering attention upon some objectionable feature of it, and ignoring the good features or lying about them, or to prejudice men in favor of the whole by reversing the process of deception.

4. *The power of rings and bosses will be greatly reduced by the Referendum*; directly so far as concerns the large portion of their power, which depends on controlling legislation; indirectly so far as concerns their administrative power. Nothing will do more than the Referendum for the cause of civil service reform, and the awakening of a strong interest in politics and the ballot on the part of our best people, and these things will quickly abolish the boss and the ring.

Proportional representation, majority elections and stringent corrupt practices acts will be likely to be proposed and adopted under the initiative and referendum. And further relief may be afforded by the Imperative Mandate or Recall—the removal of an officer by initiative and referendum on a two-thirds vote—a plan which would operate in case of any executive, judicial, or other officer appointed for a certain district or elected by a majority vote in a given district, but would not work with officers elected under the plurality rule or proportional representation and the secret ballot.

All these things, together with the fact that the purification of legislation, will take away the larger part of the profits of bossdom, make it likely that the Platts and Crokers, Quays and Hannas will find their empires undermined by the Referendum and its natural sequences.

5. *Partisanship will sink into comparative insignificance in the government of the country.* At present about all the guide the average voter has is the party to which he belongs. He knows little or nothing of the candidates on either side. There are only a few things much talked of in the campaign, so far as his party papers and speakers bring him information, and he thinks his party is right on these things, or he votes with it because his father did or his employer, and because there is no particular reason appealing to his interests to pre-

vent him from doing so. But when specific measures are submitted separately to the people in the precise form in which they are to take effect, voting will assume a definiteness heretofore unknown, and the citizens will vote on each measure as they believe their interests require, and will not be likely to rob themselves or disregard what they believe to be for their benefit, merely to please a party machine. Experience with the Referendum plan in town affairs, voting on city franchises and making constitutions, abundantly proves that the voters do not keep to party lines when it comes to opening streets, building school houses, making appropriations and acting on any matters of business, the drift of which is clearly brought home to them. Not only will the interest of the voter lead him away from partisanship, but the outside pressure tending to make him a partisan will be much less, since the larger part of the motives for that pressure—the legislative and administrative spoils to be gained by party success—will disappear, the first as a direct consequence of the Referendum, the second as an indirect consequence thru the favored growth of civil service reform.

#### SIMPLIFICATION.

6. *The Referendum will simplify as well as purify ELECTIONS.* It is much easier to vote upon measures than men. A man is a cyclopedia of measures bound in mystery; even his character is a puzzle, for the main business of opposing politicians is to fling mud at each other's candidates until it is impossible to tell how much is mud and how much is man, or some other animal.

After throwing all the mud they can dig up or manufacture, the next duty of the politicians is to pile up a lot of high-sounding words into sentences that will come as near as possible to covering any conceivable thing that a council, legislature or congress may do, and call it a platform, to remind us of its likeness to the board contraption at the business end of a summer convention, used for the speakers to stand on during the rumpus and afterward cut up for kindling.



Instead of a tangled mass of ignorance and vituperation, the Referendum will bring to the voters a series of clear-cut measures, each to be decided on its own individual merits. Shall we have proportional representation? Shall women vote on the same terms as men? Shall street car companies be required to put effective fenders and vestibules on the trolley cars? Shall towns and cities have the right to build or buy, own and operate municipal gas and electric light works if they wish? Shall they own and operate street railways? Shall they make their own charters? These are questions easily understood and capable of decision without the perplexing admixture of personal considerations or inquiries as to whether a Democratic candidate for office did not behave with becoming modesty in early life, or loves liquor too well, or whether the tariff ought to be higher, or silver freer, or whether the hard times or the good times came in under Republican or Democratic administration.

That the referendum would *disentangle issues* is one of its most weighty claims to our attention. At present we have to put up with the splinters in the bread, the hairs in the butter and the salt in the ice cream or go without our food. The party cooks stand smiling and bowing before you, urging their bills of fare on which you can plainly read such questions as these: "Will you eat a hash of chicken and dog meat? or will you have beef and rat tail in croquettes?" "Will you drink coffee steeped in vinegar or chocolate flavored with gall?" The party tailors fix up three or four suits for you to choose from. "Will you wear black clothes with yellow stripes and a very tight belt? or a grey suit with bright green shirt and corn creating shoes? or a silk hat, red overalls and a green necktie?"

The exceeding complexity of the judgments required of our voters and the impossibility of satisfactory voting under a system characterized by *Mixture of Issues*, is well brought out by Mr. Moffett

To put the "party policy" idea to the test, let us suppose that I desire the reform of the tariff, and object to the further coinage of silver, the intensity of my wish for tariff reform being represented

by 100, and that of my opposition to silver legislation being represented by 99. Suppose that my party passes a tariff bill satisfactory to me, and also passes a silver coinage bill. I am called upon to render judgment upon this "policy" at the next election. I do violence to my convictions on the silver question for the sake of my preponderating convictions on the tariff; but my dissatisfaction (99) on one question must be deducted from my satisfaction (100) on the other, leaving me a net satisfaction of only 1 instead of the 199, which I could have had if I had been allowed to vote on each measure by itself.

But this is putting the case too favorably for the "policy" theory. In this example the voter does get some opportunity, however slight, to move in the direction of his preponderating desires. But the situation is not often so simple. Suppose, for instance, that my ideas of a national "policy," quantitatively expressed, run like this:

Tariff reform.....	100
Opposition to silver coinage.....	99
Economy in government.....	80
Annexation of Hawaii.....	50
Extension of civil service laws.....	100
Strong navy.....	40
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Suppose that my party meets my wishes on tariff reform and economy (180), and the other party on silver, Hawaii and the navy (189), while neither takes a satisfactory position on the civil service (100). Then, if I vote for my party, I vote for a policy of which I approve of only 180 parts and disapprove of 289; and if I vote for the other I vote for a policy of which I approve of 189 parts and disapprove of 280. Thus my net satisfaction is 109 less than nothing in one case and 91 less than nothing in the other. And, moreover, the situation is almost certain to be still further complicated by the nomination of candidates whom I do not consider fit to hold office, but for whom I must vote as *the only way of exerting an influence on the choice of any policy at all*. If the people were allowed to vote on measures as well as on men, I could exert my full power at the polls in favor of the whole 469 points of the policy I desired to see carried out, and, in addition, I could vote for the candidate I thought best qualified for legislative business, regardless of his opinions on disputed political issues.

The American theory of representative government is that "the members of a lawmaking body should be true representatives of the people, endeavoring, to the best of their ability, to carry out the popular will, and held accountable by their constituents for the fidelity with which they execute their trust." This idea is clearly stated by Mr. Woodrow Wilson:

"It should be desired that parties should act in distinct organizations, in accordance with avowed principles, under easily recognized leaders, in order that the voters might be able to declare by

their ballots not only their condemnation of any past policy by withdrawing all support from the party responsible for it, but also and particularly their will as to the future administration of the government by bringing into power a party pledged to the adoption of an acceptable policy."

This admits the principle of the referendum, the right of the people to determine the law, but the method proposed is unworkable. The trouble lies with the fact that the harm is often largely or wholly done before the people get a chance to condemn, and with the false assumption that a "*party policy*" is a *clearly defined unit*, which may be unmistakably condemned or approved by the voters. The fact that it is nothing of the kind is one that lies on the very surface of our history. We have never had a national election whose returns made it possible to determine just what policy, in the sense of a programme of legislation, the people wanted, altho there have been very few elections in which the popular will on some one overshadowing issue has not been made tolerably clear. It was reasonably plain in 1864, for instance, that the Northern people favored the prosecution of the war, but the election threw no light on their ideas upon reconstruction, emancipation, negro suffrage, or the finances.

The theory of representation stated above is based on true feeling, but it does not work out in practice, because of the mixture of issues, and because the people have no *immediate* check upon the delegates; even if the people voted on each issue separately, it would do them little good to condemn, long after the wrongs, men who gave away Broadway franchises or leased Philadelphia gas works. It will not bring back the horse to pass a vote of censure on the hostler a year or two after the horse was stolen.

7. *The Referendum will simplify and dignify the law.* A law that is to be submitted to the people with any great hope of its adoption must be reduced to its lowest terms,<sup>1</sup> and we shall stand a chance of avoiding in future the piling up of massive tomes of useless enactments which the legislature itself knows little or nothing about a month or two after their passage, even if understood at the time, and which became law to buttress some private interest or to fill up the time of our legislators, who, being elected to make the state's laws,

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<sup>1</sup> See above statement of facts as to the use of the Referendum where it appears that people are apt to veto on general principles, a complex and ambiguous law which cannot be clearly comprehended by them—a most beneficent tendency, for surely a people ought not to be expected to obey a body of laws they cannot understand.

seem to measure the fulfillment of their duty by the number of bills they enact. David Dudley Field estimated in 1871 that if the enacting of local laws were left to the communities to which they apply, the work of the New York legislature would be reduced 95 per cent. Eltwed Pomeroy says that in 1892 alone New Jersey passed 600 laws, many a one of which was longer than the whole Justinian Code, that governed the Roman world for centuries. These New Jersey laws also have been examined, and nearly the whole of them found to be (1) local or special laws, or (2) laws that fall under a principle already established, so that they are mere senseless repetitions, or (3) acts in private or corporate interests that ought never to have been passed by any body, local or state. In later years the legislature seemed to get tired sooner than in '90, and at one session passed only about 400 laws, but they have kept up their reputation for useless enactments pretty well, altho some good laws were passed.

Under the referendum the yearly output of New Jersey's law factory would probably be reduced from 400 or 600 to 20 or 30—such at least is the result indicated by the experience of Switzerland,<sup>1</sup> and such is the reason of the case upon

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<sup>1</sup> For the last twenty years the cantons of Berne and Zurich, where they have the obligatory referendum, have passed an average of 4 or 5 laws a year, and these laws are short, simple and easily understood. In a recent Swiss national legislative session of the usual activity 65 measures were introduced and 24 passed. The New York legislature about the same time passed 700 laws, and the measures introduced into Congress reached the enormous total of 24,000. It is said that Switzerland has less than one-seventh as many lawyers as we have in proportion to population.

In 1895 Governor Griggs, of New Jersey, said: "I have absolute faith in the judgment of the people when intelligently and deliberately formed."

And in his inaugural he used the following powerful language in expressing his lack of faith in the virtues of our present prolific system of legislation:

"I consider it most important that you should at once restrict the volume of legislation. The mass of statute law has now become so immense as to be almost beyond the power of the legal mind to acquire it or the judicial mind to interpret it. It was intended by the amendments to the constitution adopted in 1875 to decrease the quantity of statute law by the abolition of special legislation upon several subjects, notably, the government of counties and municipal corporations. Such decrease was for several years effected. But gradually, aided by experience and a sharpened ingenuity, the draughtsmen of statutes came to know how to draw up laws which, while possessing the form of generality required by the constitution, had all the substance of special application to the desired locality without becoming fastened to any unwilling municipality. \* \* \* \* \* A striking instance of manifold legislation exists in the laws relating to boros. These forms of local government did not exist until recently. They were all created under so-called general laws. The spirit and letter of the constitution required that they should be governed by a uniform system. Yet we find three different general acts now in force regulating the creation and government of boros. At each session of the Legislature numerous amendments to each of the three systems are passed, until this one title in the General Statutes covers 111 pages. So varlant, inconsistent and confused



an analysis of the laws now enacted. The principles of the common law, with a few simple modifications, are entirely sufficient for any state. There would be more justice and less litigation by far, if courts were left free to apply broad principles instead of being compelled to give attention to the rigid language of narrow-minded, short-sighted legislators, and if men were able to carry the law in their consciences instead of requiring a two-horse team to convey it and a line of lawyers and judges from the justice court to the supreme court of the United States to explain it to him, and then be in danger that they'll turn round next day and declare it is the other way. It is one of the most ridiculous things in modern civilization that every man is presumed to know the law, while everybody knows that nobody knows it, not even the judges of the Supreme Court. It is impossible to keep track of one thousandth part of the statutes of state and nation; the legislators don't know much about them by the time the ink is dry, except, perhaps, the bills they drew themselves, and I have known legislators who did not know much about their own bills even while advocating them. But if some poor fellow in blissful ignorance happens to run up against some words in a musty volume in the law library, and his enemy's lawyer happens to find those words, the poor innocent has to suffer for not sitting up nights to learn the statutes. The fact

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are these acts that no legal advisor or judicial interpreter can safely say what the law is on many subjects relating to boros.

"For some years past the annual volume of the laws has been growing in thickness. As an example, the most recent, that of 1895, contains 106 different acts relating to cities, 43 relating to boros, 33 relating to townships, 13 relating to villages. It cannot be that any such number are necessary.

"Take some other subjects. There are nine separate amendments to the school law, seven different acts on the subject of sidewalks, eight relating to the State House, five relating to swamps and marshes. Similar variety and multiplicity will be found in any volume of annual statutes for the last six or seven years.

"When we consider that the power of legislation is the greatest that can be exercised by any human agency, that every law changes the rights and modifies the duties of a greater or less number of citizens, it is proper to inquire whether proposed laws are sufficiently considered before they are adopted. The same tendency to multitudinous and slipshod legislation prevails in other states of the Union, and has attracted the attention of many thoughtful persons.

"Besides the *uncertainty and confusion* that ensues from the existence of so many separate statutes, the easy change of existing law tends to create popular disrespect for the sanctity of the law. What can be so readily made and so easily altered can be fairly considered as of small importance.

"The General Statutes of the State now in press will comprise three large volumes of over 1,000 pages each. \* \* \* Unless we confess that our legislative system is a failure, we must find a method of remedying this excess." (See Appendix II T.)



is that our legislatures spend most of their time in establishing stumbling blocks in the paths of justice and the people, and the Referendum will not be long in use before the great mass of statute law will be replaced by a few simple provisions impartial to all, in thoro accord with justice and easy to learn.

Local legislation should be performed by counties and municipalities under general state laws, and private legislation should not be tolerated at all. Numerous bills that are now rushed thru, very often without discussion or understanding by the legislators, would never be introduced under the referendum, the certainty of a popular veto making them hopeless. I have even known lawyers to secure the introduction of a bill to change the law applicable to a case they had in hand so it would work in their favor. Such action is an invasion of the judicial field by the legislative power. Senator James Bradley, of New Jersey, believes this sort of thing to be quite prevalent. He says:

"The present mode of legislation is behind the age. I have become a sincere convert to the Referendum. The mass of bills presented was something to startle one. The provisions of one bill lapped on another, and I believe many an indolent lawyer found it easier to frame a bill covering just what points he needed in some case he had on hand than to exercise his brain in looking up the immense number of laws we have on every subject on our statute books. The looseness of legislation should grieve every good citizen of the state, and I hope the day is not far distant when the people will turn to the Referendum, and pass laws more general in their character and less of them."

The nation is deluged with laws, 13,000 new ones altogether in a single year sometimes, and the people know nothing of most of them till they see them in the newspapers, when it is a good while too late to stop them, and indeed not one per cent. of the people have time or interest or eyesight to go thru the wilderness of nonpareil nonsense and the muss of technicalities called laws.

Direct Legislation will stop a large part of the present law-making, turn over another large part to municipalities, and simplify what remains to the infinite relief of the people and the great lightening of the burden now resting upon our legislatures.

The over production of laws is a sign of a low grade, undeveloped legislative system. It is simply the natural fecundity of low organisms. A fish has multitudinous offspring at a single session, an elephant only one; but the quality is in inverse ratio to the quantity. The Referendum will lift our legislative system from the fish stage to the elephantine or the human plane.

Of course the *dignity* of the law will increase with the diminution in quantity and improvement in quality. A few examples will serve to illustrate the degree of dignity pertaining to some of our legislative proceedings under the present plan.

In New York a bill providing that every oyster stew must contain 13 oysters passed one house.

The Minnesota legislature passed a law forbidding the sale of any pie over 24 hours old at any lunch counter.

In Arkansas a bill was introduced providing that any bachelor over 30 must pay a tax of \$50 a year for each year he remains unmarried, unless he can bring an affidavit from a reputable woman stating that he has offered himself to her in marriage that year. They called it the "single tax." I do not know whether it passed or not.

Texas passed a resolution that her skies are bluer than those of Italy.

Iowa prohibited bloomers.

If I remember rightly, one House at Albany passed a law forbidding roosters to wear trousers on the public streets. Some man had exhibited a few chickens dressed in more humorous fashion than results from pulling out their feathers, and a grave and reverend member of the legislature, deeming the show unseemly, introduced a bill to regulate the clothing of chickens.

In New Jersey the proper length of clams is regulated by statute—they must be one inch long to escape the legislative prohibition. And New York prohibits lobsters less than six inches long.

In Indiana the Senate passed an act providing that no man shall be fined more than \$250 for kissing a woman. The bill was introduced by a man who kissed a woman without her consent. She had sued him, and as she was pretty he feared the jury would render a heavy verdict against him, and he introduced the said bill to head off the jury.

#### RESPECT FOR LAW.

8. *The Referendum will aid the enforcement of the law, for the people will grow up with it. It will be law because*

the people want it, and they will stand behind it, and see that it is carried into effect. Nothing is of more importance to a nation than a deep reverence for law; but reverence dies when legislation is dragged in the mire, and when the people regard the law-making bodies with dread and disgust.<sup>1</sup> Why is it that we revere our constitutions so deeply? It is because they are the work of the people and not of a band of politicians whose motives are open to question. The Referendum will fold the whole law in new confidence, endow it with the strength of public opinion, and give it new force for the maintenance of order and the accomplishment of progress.

#### ELEVATING POLITICS AND ATTRACTING GOOD MEN TO PUBLIC LIFE.

9. *The Referendum will elevate politics as a profession and bring the best men again into political life.* Government is intrinsically the noblest of all professions, for it includes and controls all others, as the captain of a ship holds the destiny of all on board. But when power is prostituted to evil ends it becomes despicable. The people no longer regard membership in a city council or a legislature as a badge of honor, but rather as a mark of suspicion. He is most probably in league with the powers of darkness or he would not have been elected. Honest men have little weight in the councils of many of our cities; they find the atmosphere uncongenial, and retire in disgust, or if they persist in their duty they are soon hounded out by the ring, which finds them inconvenient. Many of our wisest and purest men look on politics as too dirty to touch. They will not descend to the meanness and cunning usually necessary to secure office, nor sub-

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<sup>1</sup> The motives of city councils, state legislatures and national congresses are everywhere called in question. Nobody has much confidence in their public spirit, conscience or wisdom. Newspapers and magazines are full of slighting remarks about politics; and so besmirched have politics become by the multitudinous bad practices of legislators that it is as much as a good man's reputation is worth to have anything to do with practical politics. However pure his motives may really be, he will find it almost impossible to convince the public that his interest is unselfish and his methods conscientious, so firmly is the idea of chicanery linked in the public mind with the idea of practical politics. Laws made by legislators regarded in such a light cannot have the respect of the people to any such degree as laws directly sanctioned by the citizens at the polls, or made by legislative bodies under the popular veto and subject to conditions in every way tending to eliminate fraud and private legislation.

ject themselves to the cruel suspicions and slanders that often accompany public life. Mudslinging and the winning power of chicanery too often discourage the wise and good and leave the field to the most callous and unscrupulous.

With the referendum all this will change. Attention will be directed from men to measures. The power for evil of our office holders will shrink to a small fraction of its present bulk. Bad men will be discouraged from entering or continuing in politics because they will no longer be able to accomplish their evil purposes. With these changes the suspicions and mudflinging now so prevalent will decrease, because their causes will subside. As discussion of specific measures takes the place of partisan abuse, men of probity and wisdom will feel their influence with the people increase, and will delight to exercise their powers of mind and conscience in the direction of public affairs when they can do so without stain or ignominy. The increasing weight of goodness and the returning purity of political life will induce our best men once more to take a leading part in it and stand for office in council, legislature and congress as they used to do in the patriotic days of the revolution. The Senate will again become an Assembly of Sages instead of a Club of Millionaires, and it will no longer be necessary for a man like Beecher to pray "Lord keep us from despising our rulers, and keep them from behaving so we can't help it."

10. *The Referendum will help to bring out a full vote of the better and more intelligent citizens, while it would tend, as a rule, to eliminate the votes of the less intelligent*—the very reverse of the effects which the present system tends to produce. While speaking of the Use of the Referendum in the United States we called attention to a number of facts showing the general tendency of the referendum to cause an automatic disfranchisement of the unintelligent, so that we will confine ourselves here to the other branch of the proposition before us.

In the first place the interest will generally be more distinct in a vote on the grant of a franchise, civil service reform, appropriations for roads, schools, etc., than on a vote

whether A or B shall be councilman or mayor. And in the second place, the effectiveness of the vote will be greater. The influence of these facts in securing a full vote has been very noticeable when Boston, New York and other cities have submitted questions to the direct vote of the people. In Presidential and Gubernatorial elections, when a heavy vote is polled, it is often largely due to the enthusiasm created by some great issue involved in that election; when no such issue is at stake the mere vote for candidates is usually much smaller. In the ordinary process of making laws people think that one of two machines will do the work any way, it makes little difference which, and interference is useless. It will make no odds whether they go to the polls or not. They cannot accomplish anything except by using the methods of the machine, and sinking to the level of unscrupulous, conscienceless war. Mr. Arrowsmith says:

"A few years ago the New Jersey legislature submitted to the citizens of Orange the acceptance or rejection of a measure providing for the election of a new officer, president of council, at a salary of \$1,000 per annum. Now, out of a citizenship of upwards of 5,000, almost altogether opposed to it, only a small percentage of the voters expressed themselves upon the question. I did not vote upon it, and my neighbors exhibited a similar indifference. Why? simply because we Orange folks knew that our wishes would be set at naught, and the politicians would come to Trenton and carry their point with or without our consent."

Such a reference was not a referendum, because the vote of the people was not intended to be final. It was a sham; the people knew it lacked *effectiveness*, and altho they were interested in the question they stayed at home. The real referendum is final and effective, and encourage the people to go to the polls for the same reason that it encourages the best men to enter political life. It is full of strength, hope and progress. Let the people once feel that they are really sovereign and they will vote and look after their own interests, and instead of 40 to 60 per cent. stay-at-homes among the "better classes," who leave the field to the machines, we shall have a reasonably satisfactory expression of the people's will. Ask a man if he wants a tenderloin steak or a bit of leather for his dinner, and if he knows he will get leather any way



he may keep his mouth shut; but if he knows that what he says will settle the question, he will express himself vigorously.

HELP THE PAPERS TO TELL THE TRUTH AND USE DIGNIFIED  
ENGLISH.

11. *The elevation of the press* is one of the effects of the Referendum, and one which alone is sufficient to make it an incalculable boon. One of the most noticeable and important of all the many changes produced in Switzerland by the adoption of Direct Legislation, is the substitution of fair debate for noisy vituperation in the columns of the daily papers. It will do a similar work in America, and the Lord knows that we sorely need such a change. As measures are put in the place of men, sober discussion will take the place of the traffic in abuse. The tendency to manufacture facts, and deluge the country with sophistries will not so readily yield, but even in this respect there is sure to be a great improvement. When the people come to direct their own affairs they will demand the truth; they will want the actual facts, so that they may judge correctly in respect to their business, just as a board of directors of a private corporation wants the facts, and regards deception of themselves as one of the most unpardonable sins.

THE PEOPLE'S UNIVERSITY.

12. *Direct Legislation will have a profound educational effect.* Wendell Phillips said long ago that the discussions accompanying presidential elections give the people a tremendous intellectual lift every four years. With the Referendum, the progress will be continuous instead of spasmodic, with intervals wide enough for the pupils to forget nearly all that they learn at each lesson, as at present.

Nowhere on the face of the globe do you find as high an average of keen intelligence as among the men of a New England town trained from boyhood in the town-meeting. Continual voting on measures supplies an invaluable discipline

in place of the retrograde influences often involved in personal elections. Every citizen's sphere of thought and responsibility will be enlarged by the Referendum, and growth will be the result. Besides being a University in itself, the Referendum will make the public welfare depend so directly and obviously on the morality and intelligence of the people, and not on the sagacity and probity of a few individuals, that patriots, statesmen and business men will combine to develop to the utmost every means of educating the masses, and a great impetus will be given to popular education, with a corresponding improvement in the results.

It is interesting to note that, according to Mulhall, Switzerland is the best schooled country in the world. The percentage of children attending school is far above that in any other country in Europe or any state in America. The per capita expenditure for education is correspondingly high, and the diffusion of knowledge is remarkable.<sup>1</sup> The Referendum educates the people directly, and creates a powerful sentiment in favor of the thoro education of the children.

History has only one other example of a people so universally cultivated, and that is the still more remarkable instance of the Athenians. Among all the Greeks, they were the most cultured, and they were far the most democratic. The Age of Pericles, and immediately succeeding years, when Grecian civilization was at its height in Athens, with a cluster of great philosophers, statesmen and poets such as the world has never seen before or since, corresponded with the full bloom of democracy. All power was in the hands of the people, who made the laws by direct discussion and vote

<sup>1</sup> It is interesting to compare the expenditures for education and for the army in Switzerland and in some of the other chief countries of Europe. The figures are from the *Clarion* of March 12, 1898:

Country	Expenditure per capita	
	For Army	For Pub. Education
	s. d.	s. d.
France .....	17 4	3 0
Great Britain.....	16 0	2 4
Holland.....	15 7	2 9
Germany.....	10 4	2 0
Russia .....	8 6	0 2
Belgium.....	6 0	2 2
Switzerland.....	3 8	3 10

Switzerland spends comparatively little on the army and much on education.

in public assemblies of the citizens. And the historian, Freeman, says that the average intelligence of the assembled free-men of Athens was higher than the average intelligence of the English House of Commons, which is probably the equal of our Congress.

#### DEVELOPS MORALS AND MANHOOD.

13. *The emotional development of the people, as well as their intellectual growth will follow from the Referendum.* The consciousness of added power and responsibility will give the voters a new dignity and a nobler manhood. They will feel like judges in the court of final appeal. Not mere selectors of somebody to boss them, but rulers themselves. Not mere nominators of a sovereign, but sovereigns. Such changes in spiritual attitude and environment always work most powerfully upon the moral and emotional development of the individual and the race. The patriotic, law-abiding, law-enforcing sentiments of the people will be specially intensified by the Referendum, because they will know that the country is theirs not merely in name, but in fact; not merely to live in and use as some one else bids them, but to mould and control for themselves.

#### A STEADYING INFLUENCE—THE SOCIAL FLY-WHEEL.

14. *The Referendum favors stability* by developing patriotism and education, securing greater simplicity and better enforcement of law, driving bad men out of politics and bringing good men in, supplying a safety valve for popular discontent, and requiring a more careful consideration of legislation. Long use of the Referendum has shown that it is conservative. This clearly appears from the facts already stated concerning its use in this country, and its record in Switzerland for thirty years shows that two-thirds of the measures submitted to the people were rejected by them.<sup>1</sup> If the votes

<sup>1</sup> Direct Legislation Record, 1897, p 17: One of the most important of the advantages of the Referendum is the fact that it forms a *drag* on *hasty* legislation. There are two reasons for this tendency: First, an agent is apt to give more consideration to his action when he knows that the watch

of the legislators had been final, many of the rejected measures would have been law and some of the best measures adopted by the people would not have been passed by the legislators. An open door to popular decision gives discontent a peaceful vent—prevents its *accumulation* and draws it away from destructive methods of escape. The present system affords it no reasonable means of exerting its power, and allows it to accumulate indefinitely. The importance of this matter can hardly be overestimated. Anglo-Saxon manhood, confined beneath the pressure of accumulating injustice, is the most dangerous explosive known to history. Macaulay predicted that it would destroy America—industrial oppression of hopeless masses leading to revolution; but Macaulay did not know about the Referendum that is going to relieve the pressure, we hope, before the explosion comes.

The Referendum reduces to a minimum the danger of broken peace. Nothing can oppose so strong a bulwark against an appeal to passion as the knowledge that the *PEOPLE* made the law and *can change it* when they please—the knowledge that there is no selfish power, deaf to reason and impervious to sympathy, imprisoning progress in the dungeons of iniquity, whence only force can hope for speedy release, but that deliberate and careful discussion before the great, honest, justice-loving people will remedy every wrong. Such knowledge will remove the causes that have produced the growth of anarchy. *It is smothering discontent in hopelessness that breeds poison.* Every anarchist I ever heard express himself had much of truth in what he said. It was his hopelessness of obtaining the justice he sought by peaceful means that made him advocate fire and bomb. An anarchist generally is a man who feels intensely the pressure of wrong conditions, and whose nature has more of recklessness than hope. Give us the Referendum and the path will be

and control of his principal are continually upon him, than if he is beyond the reach of interference and can do as he likes without interruption. Second, not only will the legislators give more attention to what they do when the people are to pass on their acts, but the fact that a large body of citizens must make up their minds before the bill can become a law will itself necessitate far more discussion of the measure than when only one or a few persons do the deciding, especially if influence, money or partisanship give the few their decision beforehand without the trouble of discussion.

so plain that Anarchy will soon go out of business. There is no such thing in Switzerland. It is foreign to real democracy, for there the obstruction to your wishes is the people, and you can't get rid of them with a bomb.

It is sometimes objected by those who oppose Direct Legislation, that the Initiative will give all sorts of cranks a chance to bring their ideas to the front. But that is really one of the advantages of the institution. It enables discontent to find out just how big it is, gives it form and precision, sifts out the kernel of truth and justice at the heart of it, lifts it into the fresh air of public discussion before it has a chance to ferment and explode. Even the worst cranks would probably be diverted from violence to peaceful petitions and efforts to educate the public to their ideas. The petitions would cause no trouble, not even the effort of a veto, until they rose to 20,000 in Massachusetts and 70,000 in New York, and if there were 20,000 citizens in the Bay State who were united in the opinion that a certain change should be made in the law of the state, surely the matter would be worthy the careful attention of the people.

Under the Referendum, the street car men of Brooklyn or Philadelphia would not give up their work for the privations and turmoil of a strike, nor would they suffer in hopeless silence, but they would state their grievances at the head of a petition for the Referendum on Municipal Ownership of the Roads, and get their friends to circulate it, and then vote the secret ballot for the transformation that would give them a voice in the government of the industry in which they are engaged.

Under the Referendum, the unemployed would not parade the streets of our cities in angry, hopeless mobs, but they would set the wheels of the law in motion to give them complete justice, instead of the patchwork of hated charity.

Not only will revolutionary and disruptive forces become comparatively harmless under the Referendum, and progressive forces work more smoothly and steadily, but even the unavoidable difficulties and errors incident to the government of large bodies of men will be more serenely and calmly dealt



with. People are not so apt to find fault with what they do themselves as with what is done by others. Take a man who is scolding about something and prove to him that it is his own doing and he becomes quiet and moderate. Watch a mechanic trying to use a defective piece of machinery made by some one for whom he is not responsible, and see how blue the air will be with deprecation or something worse; but let him endeavor to use an imperfect machine made by himself, and see how good natured and tolerant he is, and how patiently he seeks to remedy the defect. So censure and ridicule without measure are heaped upon the acts of councils, legislatures and congresses, but note the atmosphere of quiet acquiescence when the people have spoken, even tho the interests involved are of the most tremendous moment and the preceding struggle was most intense.

The following selections illustrate these points. Read first a few of the extracts collected by Mr. Pomeroy, showing the light in which many legislative bodies are regarded, and then compare the expressions of cordial acquiescence in the people's decision in 1896, on the part of those who had advocated men and measures that were not successful at the polls.

#### CONGRESS.

##### *From the Outlook (religious).*

"Congress has adjourned. It has lived without achievement; it dies without honor. It was elected by an overwhelming majority. At the end of its career it was defeated by a majority not less significant."

##### *From the New York Herald.*

"Congress drew its final official breath amid a wild saturnalia. Champagne flowed like water, women of ill repute swarmed the corridors and sang songs in the public restaurants with inebriated Congressmen in the small hours of the morning. Between roll calls members staggered between their places and the bottle."

#### NEW YORK LEGISLATURE.

##### *From the Review of Reviews.*

"Republican politicians at Albany turned out to be as selfish and unscrupulous as their Democratic predecessors had been. The opposition of Mr. Platt and his friends wretchedly mutilated the reform programme."

*From the New York World.*

"The New York State legislature of 1895 was probably the most incompetent, vicious and useless that the people were ever called upon to pay for. The session itself cost the 7,000,000 people of the State almost as much as the 1894 term of the British Parliament, which made laws for 300,000,000 of its citizens and colonists."

Legislative Body.	No. of laws	Cost of maintenance.
Congress .....	351	\$3,477,834
British Parliament .....	266	468,640
New York Legislature.....	about 700	420,000

(The second session of the 53d Congress, which legislated for 70,000,000 of people, cost nearly eight times as much as the British Parliament, legislating for 300,000,000.)

*From the Outlook.*

"Distrust of legislation has been widened and deepened by the record of the New York body just adjourned. . . . This legislature, more than any other of recent years, was elected on the pledge of reform. . . . It was pledged to ballot reform, and passed a blanket ballot bill which permits the ballot of the bribed voter to be identified by the purchasers.

"It was pledged to a corrupt practices act, requiring sworn itemized statements of the receipts and expenditures of campaign committees, and ignominiously rejected all measures designed to fulfill this pledge.

"It was pledged to public school reform, and defeated the bill which had the support of all the reform organizations.

"It was above all things, pledged to the complete overthrow of the Tammany Hall police system, yet it passed the police bill making mandatory the Tammany system of a bipartisan commission and then rejected the bill giving the honorable commissioners appointed by Mayor Strong the power to reorganize the Tammany force."

## PENNSYLVANIA LEGISLATURE.

*From the Voice (Prohibition).*

"The Pennsylvania legislature expired to-day without a mourner. In the early part of the evening a number of the members were visibly affected by liquor, and with howls, yells and whistling did all in their power to make night hideous. The climax was reached at midnight. Then it was that the most disgraceful scenes that have ever occurred within the halls of the State Capitol took place. . . . Some of the members were not satisfied with what they could drink, but threw the liquor over each other, so that when they emerged from the room they were spattered with beer from head to foot; others carried bottles with them; others had lunch sent to them at their desks, where they entertained their "lady friends."

## MASSACHUSETTS LEGISLATURE.

*From Harper's Weekly.*

"It has been widely and most regretfully noticed that during the last ten years or so the Massachusetts legislature, once a body of exceptional purity, intelligence and public spirit, has become more and more an assemblage of ordinary political hacks, accessible to corrupt influences."

## MICHIGAN LEGISLATURE.

*From the Detroit Free Press.*

"It would be impossible within a reasonable space to record the sins of commission and omission committed by the present legislature. . . . The whole course of the legislature is indicative of venality and of servility to the machine. Lobbyists may have had less expensive work at times past, but they never found it easier. Our misrepresentatives go so far as to say that the people shall not voice their opinion upon a great constitutional question. They are without rights which the legislators are bound to respect. It is for the machine and the corporations. . . . We have in Michigan the most terrible example yet furnished in a time of profound peace of what calamities may result from a perversion of the principles of representative government."

## INDIANA LEGISLATURE.

*From the Review-Herald, Battle Creek, Mich. (religious).*

"The Indiana legislature has won for itself a distinction for defiance of law, even in the days of lawlessness. A Republican legislature has struggled for supremacy with a Democratic executive, and the contest culminated on the night of the 11th in a wild riot. Chairs, revolvers, books, fists and boots were freely used. More than a score were severely injured. . . ."

"The disgraceful scenes that are witnessed in some of our legislatures are sufficient to cause a deep blush of shame on the cheek of every American."

## ILLINOIS LEGISLATURE.

*From the Chicago Times-Herald.*

"If the honest, law-abiding people of Illinois could have been present in Springfield to witness the extraordinary closing hours of the thirty-ninth general assembly, they would have been led seriously to doubt whether there exists in this State a republican form of government."

## ARKANSAS LEGISLATURE.

*From the Farmers' Tribune.*

"Representative Yancy disclosed how the Iron Mountain Railroad had been able to buy and control the legislature of the State at \$100 per vote. There is no doubt that enough legislators were under pay to swing the vote in the favor of the railway company."

## TEXAS LEGISLATURE.

*James Armstrong in The Coming Nation.*

"With the exception of prayer, excursions and the payment of salaries, I know nothing which that august body has successfully done. They have insisted on mileage while traveling on passes, and laughed to scorn every proposition to curtail expenses. Their conduct from the first day of their meeting has elicited nothing save my sovereign disgust."

Now read a few more paragraphs from some of the most strenuous advocates of the party and policy that was defeated at the polls, and mark their quiet acquiescence in the people's verdict against them.

*William P. St. John, treasurer of the National Democratic Committee said:*

"The people have declared themselves unmistakably. I therefore cordially acquiesce."

*The New York Journal said:*

"The people have chosen Major McKinley instead of Mr. Bryan to be President. Nobody has a right to object, for the people's will is sovereign. It is the high privilege of the citizens of this Republic to decide for themselves what is good for them, and when they happen to be wrong they always have the good sense to suffer the consequences with patience, knowing that at the ballot box they can set things straight again. The Journal regrets the decision of the people. Four years, however, constitute an insignificant space in the life of a nation. Let us hope that the predicted confidence and prosperity will be forthcoming. The Journal has no inclination to quarrel with the jury of the people because of their verdict."

*The Chicago Evening Dispatch said:*

"Wait. It is only four years. The mills of the gods grind slowly, but they grind exceeding small; wait. To dispute the will of the majority is revolution, and the Dispatch believes in the perpetuity of the nation, and concedes that what a majority of the people want all of the people can stand. Our faith is pinned to American citizenship."

*The Wheeling (W. Va.) Register said:*

"But we have faith in the American people, in their common sense, and in their rugged honesty. Four years is not long, and Mr. Bryan is young."

*The Indianapolis (Ind.) Sentinel said:*

"The result will come as a great disappointment to thousands, but the fundamental principle of our Government is acquiescence

in the will of the majority, and, therefore, all good citizens will reconcile themselves to making the best of what they may possibly consider a bad matter."

*The Wilkesbarre (Pa.) Leader said:*

"The will of the people is supreme. Let all cheerfully bow to it and hope that the best that could have been done has been accomplished."

*The Salt Lake (Utah) Herald said:*

"The American people, as a people, cannot be purchased, tho they may be deceived. Those who advocate free silver will accept the verdict of the American people as that of the sovereign power of this country."

*The Houston (Tex.) Post said:*

"The voice of the nation has decided against the Democracy and in favor of Republicanism, and nothing remains, of course, but to bow as gracefully as possible to the will of the majority."

If men can so serenely bow to the defeat of their most cherished hopes when the people speak, altho the door is closed for four long years, how much more calmly would they yield when they knew that it might not be necessary to wait four years but that the decision could be modified whenever the people should consider it best to do so?

#### ECONOMY.

15. *Large economies will result from Direct Legislation* thru the stopping of jobs, extravagant contracts, corrupt legislation of all sorts, cutting down the power of bosses and rings, simplifying the law, reducing litigation and diminishing even the expenses of legitimate government. A single illustration under the latter head will show the economical tendencies of the Referendum. In New Jersey every year about 100 newspapers receive about \$1200 apiece for printing the acts of the legislature, a performance which costs the publisher less than one-tenth of what he receives; \$75 cost to each newspaper, over \$1200 cost to the taxpayer. More than \$100,000 out of the pockets of the people every year merely to enable the politicians to keep in the good graces of the papers, for if a paper misbehaves, it is easy to strike it from the list of



those that are to get the law-money, and not a few papers would die if they did not get this help—a consummation devoutly to be wished, since one-third, or even one-tenth of the papers in the state could do the whole work of the press, and do it better and cheaper than it is done now, with a paper to each 1000 inhabitants in some localities, and four of them (the papers) to publish the laws in a single town of 5000 people. The shrinkage of state legislation under the Referendum and the effective auditing of appropriations will probably save the whole \$100,000 and a large part of the actual present cost. The state could print for itself the laws enacted each year and send a package to every post office or news delivery, where they could be had free upon application.

This is only one little item, but it shows the drift. The ruler is apt to arrange things to suit his own interest. When the people really make the laws, they will arrange things for *their* interests. They will banish unnecessary offices, reduce the salaries of lofty officials, abolish jobbery and extravagance, get rid of the iniquitous spoils system, cut down the power of corporate wealth, rescind all forfeited franchises and take control of misbehaving monopolies. Economy, justice and purity will go hand in hand. Ring-rule and class-legislation will die, and politicians will lose their power, because they can no longer command rewards for their supporters, no jobs, no fat contracts, no rich franchises. The cost of taking the Referendum vote will be very slight; not so much as the saving on many a single contract; not a half of the saving on the one item of printing the laws; not a tenth of the value of many a franchise it will keep from being stolen.

#### IDENTIFICATION OF POWER WITH PUBLIC INTEREST.

16. *The Referendum will identify power with the public interest.* One of the prime sources of evil in our government to-day is the possession of vast political power by private interests. History shows that the law is in the main the expression of the interest of the law-maker. If the law is to be in the people's interest, it must be their act; the enacting and

approving power must be in the people. Power is used in the interest of its possessor. If the power of government is to be used in the interest of the people, they must have continuous and effective control of the government.

Government should be so arranged that interest and power will coincide with justice and the public good. This can only be the case when the real control is in the whole body of citizens of full age and discretion and good character, for the interest of a part is not identical with the interest of the whole, and so far as power is possessed by a part, its exercise may deviate from justice and the public good.

#### THE WORKINGMAN'S ISSUE.

17. *The Referendum will give Labor its true weight. Labor's interest in the Referendum is measureless; it is par excellence the workingman's issue.* The present delegate system places Labor at tremendous disadvantage as compared with Capital. Nearly all the delegates are wealthy or sympathize with the wealthy, or are under their influence. Labor cannot expect a great deal from legislators; and the weapon it has largely relied upon, the organized strike, is being abolished by injunction. Not without reason, for it is certainly against the public interest to allow a big corporation and its employees to settle their disagreements by private war in the heart of a great city, to the vast disturbance of business and perhaps the destruction of life and property—just as much against the public interest as it would be to allow two individuals to settle a dispute by conflict in the public streets. Nevertheless, Labor is coming to be in a very tight place without the strike and without effective representation in the halls of legislation. What is the remedy? Courts of compulsory arbitration would do some good, but the fundamental constitutional cure is Direct Legislation.

Labor unions recognize quite generally the importance of Direct Legislation to them. As early as 1891 ten of the largest national and international trades unions (with a membership close to 200,000) were using Direct Legislation. The

same year Grand Master Workman Powderly recommended the adoption of the Referendum in political government. From 1892 Direct Legislation was the only political demand of the American Federation of Labor until 1894, when others were added. It has been repeatedly and emphatically indorsed by this powerful organization, and its president, Samuel Gompers, is a firm believer in the movement. The Farmers' Alliance, also, as we have said, strongly advocates the Referendum. For two or three years its Supreme Council passed resolutions favoring the discussion of Direct Legislation, and recently an emphatic demand for it has been inserted in their platform.

Any one who will examine the composition of councils and boards of aldermen in our large cities, or of our legislatures and congresses, will realize how small a chance there is that our present law-makers will do full justice to labor. The following facts illustrate the situation:

#### 53d Congress.

Senate.	House.
64 lawyers.	245 lawyers.
10 manufs. or merchants.	14 bankers.
6 bankers.	21 manufs. or merchants.
1 doctor.	5 doctors.
1 farmer.	8 educators.
4 miscellaneous.	25 farmers.
	28 miscellaneous.

Over 70 per cent. lawyers and nearly all the rest belong to the "upper" classes. What chance has Labor with such an assembly?

There are some farmers, physicians, educators, etc., who may perhaps be heard if the speaker is willing. But the farmers are not, as a rule, the sort of men who hold the plow themselves. They are farmers because they own farms. They hire non-owners to do the work. Their financial interests are not with labor.

Examine the present congress (55th):

## Senate.

54 lawyers.	1 brewer.
11 public officials (very likely lawyers also).	2 journalists.
1 railroad president.	2 newspaper proprietors.
1 president of express co.	1 literateur.
1 capitalist.	1 planter.
1 miner.	1 planter and journalist.
2 manufacturers.	4 farmers.
6 merchants.	1 lawyer and farmer.
	1 retired.

Over 60 per cent. are lawyers, and nearly all the rest are members of the professional and capitalistic classes. The Senate has been called a millionaire club, and it is a fact that almost every member is wealthy, or so related in sympathy and interest to the wealthy as to make it very unlikely that he would vote for anything that would put much check on the growth of great fortunes.

## The House.

210 lawyers.	8 bankers.
17 public officials.	3 physicians.
11 manufacturers.	1 pharmacist.
12 merchants.	1 chemist.
3 "real estate."	2 "insurance."
3 lumbermen.	3 planters.
1 coal dealer.	20 farmers.
10 journalists.	1 stock raiser.
7 editors.	1 operator.
1 printer.	1 "machinery."
1 laboring man.	3 retired.

20 not given.

Over 60 per cent. lawyers again—the president and 60 per cent. of both houses are lawyers, and is it not the very instinct of a lawyer to follow the interests of his wealthiest clients? And who are those clients but the great monopolies and trusts? Is it any wonder that sugar has many friends at Washington, and can get what it wants in the tariff? Is it any wonder that

all the efforts of the people to secure a postal telegraph have been abortive? Is it any wonder that the express companies have been able to prevent the establishment of a parcels post, or that the government pays the railroads for transporting the mails eight times the rates paid by the express companies for the transportation of express packages?

The spoils of office under the absolute delegate system have created conditions of nomination and election which naturally produce class government. To be a successful candidate requires, in general, time, money, address, a wide acquaintance and a knowledge of the machinery of politics and law. A workingman or farmer or business man of small affairs is not very apt to be a candidate for any influential office, and if he is a candidate his chances of election are small. He is too busy to do the needful buttonholing; he has no money with which to convince the "boys" that he is a good fellow, fit for office; he has no acquaintance with leading men, and he lacks the knowledge of political tactics which is so useful in winning elections, as well as that really important understanding of government and social affairs which is rightly regarded as a qualification for public preferment. Lawyers, bankers, brokers and brewers, leading merchants, manufacturers, journalists, corporation managers, professional politicians and demagogues—such are the men who carry elections and fill the offices, and these are not the men most likely to be in real sympathy with the great mass of the people, or to have interests identical with theirs, or to be capable of truly representing them; they are more likely to represent the great trusts and corporations whose legislative and administrative interests are, to a large extent, antagonistic to the public interest. If the mass of the people were really represented, the tide of affairs would be turned from the progressive congestion of wealth toward the progressive diffusion of wealth.

In illustration of the sort of chemical composition that is possible in a state legislature. I quote from a Hazleton (Pa.) paper of last year (1897):

"In the next Pennsylvania Legislature will be found one gambler, one base ball umpire, one preacher, eight men who declare they



are 'gentlemen,' nineteen without occupations, twenty-seven lawyers and one pugilist. Of the members, three were convicted of larceny, one was tried for murder and acquitted, three have been in insane asylums, while eight have been at Keeley cures and four are divorced."

#### THE PEOPLE'S ISSUE.

18. *Not the producing classes alone, but every other class in the community will be benefited by the Referendum.* It must be clear by this time that all who wish justice and good government will be benefited by Direct Legislation, and it is equally true that even the bosses and tricksters will receive a priceless boon by the removal of the temptations that help to make them evil men, and the establishment of conditions tending to lift them to a nobler plane of life. Under the Referendum, those who desire political power must become true-hearted orators and public-spirited philosophers instead of accomplished wire-pullers.

The Referendum is in no true sense either a class-measure or a party-measure. The latter point has already been brought out by our review of the persons and platforms that favor Direct Legislation, and by the record of actual referendum votes, showing how independent of party lines the voting usually is. A single case may serve to bring the matter strongly to mind. In Nebraska, in 1896, the Republicans submitted twelve amendments to the people and were defeated by the Populists at the polls, but the amendments received majorities ranging from 54 to 70 per cent. of the votes cast, while the Populist majorities on the eleven state officers elected and on the Presidential electors ranged from a plurality of 50 per cent. to a majority of 54 per cent.

#### A COROLLARY FROM ESTABLISHED LEGAL PRINCIPLES.

##### SIMPLY AN APPLICATION OF THE LAW OF AGENCY.

19. *Direct Legislation is simply an application of the fundamental principles of Agency recognized in every court of justice in the civilized world; viz: That an agent must hold himself at all times subject to the command and approval*

of his principal. If you employ an agent to manage your business, he expects to do as you say in all things. He will advise you, but if you are not convinced he must do your way and not his; and if he is not willing to do your way, he resigns, or you discharge him. He may plan, but you have the power of instant veto, and you do not have to wait till the end of the year. If you did, you might find your property mortgaged or sold or given away beyond recall.

Men often speak of their theories as tho they were facts. Because of our theories of what government ought to be and is intended to be, we have fallen into the habit of calling our representatives and misrepresentatives the 'agents' of the people; but it is not true. An agent may be instructed by his principal at any time, and he is bound to obey; he must submit his plans in respect to the principal's business to the principal whenever requested to do so, and the principal may reject them or amend them if they do not suit him; the agent's power may be revoked whenever he misconducts himself; and in every respect he is subject to the will of the principal; an instrument to carry it into execution, and not a person to set up his will in opposition to the principal's and override or disregard the principal's wishes in his own affairs—that sort of a person is a master, not an agent.

To one who understands the nature of agency, and knows that an agent is simply an instrument in the hand of the principal to execute his purposes, it sounds very odd to call city councilmen and state legislators "agents." They ought to be, but they are not. They have some of the symptoms, but in other respects they are found to be a very different sort of animal. Queer agents who can sell or give away my property against my wish and protest; queer agents who can refuse to manage my business in the way I tell them to, and who may violate my orders and disregard my instructions, and still be safe from discharge till the term for which I employed them to act for me has expired. You engage an architect to draw plans for your house, but you expect to have the plans submitted to you before your money is spent in building. Legislators are not agents, but masters; and the

people do not, for the most part, govern themselves, but merely select the persons who are to govern them. These legislative masters have many interests in common with the rest of the people, and not infrequently wish to be re-elected; so they act to a considerable extent as real agents would. But they are not real agents, for they are not *bound* to act for the principal's interest or according to his instructions, and every now and then, when their interests are strongly opposed to the people's, and they think they can act in such a way as not to arouse public indignation, or they have a political machine at their backs assuring re-election whatever they do, or the interest involved seems more important to them than the chance of re-election—then they give away franchises, lease city gas works, make bad contracts, pass laws for their private benefit, and act in public affairs in many a way they would never dream of acting if the business in their charge had been intrusted to them by an individual or company employing them as agents subject to the principal's supervision, instruction, veto and discharge according to the universally recognized principles of the law of agency. A man who can give away my property against my protest and without redress, and can make laws that I have to obey for a year or two years or four years, till he goes out of office, is not my agent, but my master for the term.<sup>1</sup>

Our legislators and officials will never be really the people's agents, the people's will will never be the actually and continuously governing will, until the people claim the principal's rights of instruction and veto, revocation and discharge.

#### EXPERIENCE.

20. *Experience* speaks strongly for the Referendum, not only from its successful use in the United States, but also from

<sup>1</sup> Not only the principles applicable to agents strictly so called, the class to which legislators ought to belong, but also the laws and usages of dealings with servants, contractors, etc., point to the Referendum idea. If you have a cook and she makes a broth you don't like, you do not have to swallow it, and you may discharge the cook if she won't make things right; but legislative soups you have to take, no matter how unpleasant, and you are compelled to wait one year, two years or four years to get rid of the rascally cooks. If your tailor makes a suit of clothes that does not fit, you do not have to wear it, nor pay the tailor, either, unless he makes it the way you want it. But with the making of law you do not exhibit so much sense; you have fixed things so that you are obliged to wear the misfit and pay the tailor just the same as if it were a fit.

its use in England and Canada, and most eloquently of all from the splendid results of its complete adoption in Switzerland.

In Canada the Referendum is often used to ascertain public opinion on important measures, and has done some excellent work in the same way as in our states and cities when used voluntarily by the legislatures or councils.

In England the Referendum principle is very effectively applied. Every "appeal to the people" after each dissolution of parliament is practically a Referendum. Parties go to the people, not with vague generalities muddled in a heap of promises which the promisors never dream any one would be so discourteous as to ask them to fulfil, but with a distinct course of legislation clearly marked out, a definite and practical measure reduced to the very terms it is proposed to enact into law, an actual bill which the people sit in judgment upon, hear the advocates for and against and reject or approve, as they see fit. England is slow in some things, but the mother can teach the daughter a few good lessons if the young lady will only listen with her nose at par or lower. When the English make up their minds, and elect a new parliament to carry out a reform, the members meet at once and put the will of the people into action. The old parliament is dead, and the new one begins to move as soon as the victory at the polls is assured. But with us it takes six months or a year for the new Congress to get hold of the reins, and meanwhile the old-boys, whom the people have repudiated, continue to drive to destruction or anywhere else they please.

It is to Switzerland, however, that we must turn for the fullest development of the referendum. Prof. Louis Waurin, of the University of Geneva, says:<sup>1</sup>

"In the middle of this century the aristocratic regime in Switzerland was succeeded by that of representative democracy. The pure representative system, however, was not destined to last long. The people soon became aware that in the latter regime the country was overridden by political 'coteries,' prone to sacrifice the general good to party or personal interests, and thus was brought about the development of direct democracy. Then appeared two institutions: The Referendum and the right of popular Initiative to which has of late been added, as a necessary complement, proportional representation."

<sup>1</sup> *Progressive Review*, London, July, 1897.

The evolution and effects of Direct Legislation in Switzerland are so important that a knowledge of its history there seems almost essential to anything like a thoro understanding of our subject. The following resume<sup>2</sup> will give the reader the principal points:

Fifty years ago Switzerland was more under the heels of class rule than we are to-day; political turmoil, rioting, civil war, monopoly, aristocracy and oppression—that was the history of a large portion of the Swiss until within a few decades. To-day the country is the freest and most peaceful in the world. What has wrought the change? Simply Union and the Referendum—Union for strength, the Referendum for justice. Union to stop war and riot—the Referendum to overcome monopoly, aristocracy and oppression. A solid confederation of the twenty-two cantons or states, with a good constitution, was founded in 1848. Peace followed, but the railroads, politicians, aristocrats and monopolists continued to plunder the people. In 1858 a heavy subsidy was granted a railroad by the legislature of Neuchatel. This opened the eyes of the Switzers to the “beauties” of the representative system. They began to cast about for a remedy. Some of the ablest citizens had for years been calling attention to the value of the Referendum (which was practiced in a few of the small forest cantons), urging the extension of the method to other states and to the Union. The people saw that it was of no use to put faith in parties struggling for public office, or to continue trying to guess which candidates might withstand the corruptions of power, and so they decided to trust themselves. In 1863 and a few years following, six of the leading cantons adopted the Initiative and Referendum, and to-day Direct Legislation is practiced in all of Switzerland’s cities, most of its communes, in 21 out of the 22 cantons, and in the Federal Government. Fourteen of the cantons have the obligatory Referendum, and seven the optional. The Confederation adopted the Referendum in 1874. The Initiative is in use in 17 cantons, and the Federation adopted it in 1891. The Referendum clause of the Federal Constitution reads as follows:

“Federal laws as well as federal resolutions which are binding upon all, and which are not of such a nature that they must be despatched immediately, shall be laid before the people for acceptance or rejection when this is demanded by 30,000 Swiss voters or by eight cantons.”

The amendment of 1891 provides for the Initiative “when 50,000 voters demand the enactment, abolition or alteration of special articles of the constitution.” As constitutional lines are very loosely drawn in Switzerland, the people will be able to initiate almost any measure they choose. Let us look at the results. Mr. W. D.

<sup>2</sup> A condensation for the most part from the writings of Mr. Sullivan, Mr. McCrackan, Karl Burkli, Sir Francis Adams, and Hon. Boyd Winchester, ex-U. S. Minister to Switzerland.



McCrackan and Mr. J. W. Sullivan have made exhaustive studies of Swiss affairs, and to them I owe most of the facts I give about the Referendum there. Mr. Sullivan has the story of Direct Legislation in writing from Herr Carl Burkli, of Zurich, known as the "Father of the Referendum," who says: "The masses of the citizens of Switzerland found it necessary to revolt against their plutocracy and the corrupt politicians who were exploiting the country thru the representative system. . . . The plutocratic government and the Grand Council of Zurich, which had connived with the private banks and railroads, were pulled down in one great voting swoop. The people had grown tired of being beheaded by the office holders after every election. And politicians and privileged classes have ever since been going down before these instruments in the hands of the people."

The Referendum has been carried most nearly to perfection in Berne, the great canton of half a million people, and in Zurich, with its 340,000 inhabitants. The legislature of Zurich consists of a single house of 300 members. It meets two or three times a year for a two-weeks' session. It cannot grant a privilege to a corporation, nor create an office, nor grant a contract. Every enactment and every appropriation above the ordinary limited sums for purposes specified in the constitution, must go to the polls. And the consequences—let me quote Mr. Sullivan verbatim, so that there may be no mistake: "The Zurich legislature knows nothing of bribery. It never sees a lobbyist. There are no vestiges remaining of the public extravagance, the confusion of laws, the partisan feeling, the personal campaigns, characteristic of representative governments. . . . When men of Zurich, now but middle aged, were young, its legislature practiced vices similar to those of American legislatures; the cantons supported many idling functionaries, and the citizens were ordinarily but voting machines, registering the will of the political bosses. . . . To-day there is not a sinecure public office in Zurich; the popular vote has cut down the number of officials to the minimum, and their pay also. . . . There are no officials with high salaries. . . . There is no one-man power in Switzerland. . . . No machine politician lives by spoils. . . . The referendum has proved destructive to class law and class privilege." In other words, Switzerland has rid the body politic of its vermin—it has taken politics out of the slums and civilized it. Direct legislation has destroyed the power of legislators to legislate for personal ends, and so has punctured the heart of evil in legislation.

One of the most valuable results has been the effect on the press. The papers no longer deal in spite, prejudice, sensationalism and slander, but aim at quiet discussion and solid argument. Says Mr. Sullivan: "The advance of the Swiss press in power, in dignity, in public helpfulness since the day of Direct Legislation in that country has been one of the most remarkable facts connected with the reform." I wonder if it really could give our papers dignity

and helpfulness, and a slight respect for the truth. Mighty Magician, we pray for thy speedy arrival.

The progressive power of the Referendum has been wonderful. It has enabled the Swiss to settle quickly and easily many of the serious problems over which Americans have long been puzzling their heads, and in respect to which they seem little nearer a solution to-day than they were 10 or 15 years ago. We have spoken of the elevation of the press, the overthrow of monopoly, the purification of politics and the economies resulting therefrom, and from the absence of senates, unnecessary offices, high salaries and complex laws; but that is not all. Thru the Referendum Switzerland has secured public ownership of the liquor business, the manufacture of distilled liquors being now a national monopoly, has adopted state life insurance, a national paper currency, a greatly improved factory act, a uniform marriage and divorce law more liberal and sensible than any of ours, established local option in capital punishment, declared that vaccination shall not be compulsory, that religion shall not be entirely swept out of the schools, and that her people are not yet ready to recognize governmentally the right to employment when linked with a demand for "an official status between laborers and employers, with democratic organization of the work in factories and workshops." [And the Swiss are right. It would not be just for the public to attempt such a reorganization until the public or the workers by purchase, or the growth of co-operation, have come to *own* the shops. Democratic organization before that would be confiscation.] All this since 1875, and still we have not spoken of the two most important movements of the referendum period, viz., improved taxation and the nationalization of the means of communication—both the results of Direct Legislation.

Tax reform has proceeded in two directions: First, the reduction of the aggregate of taxation, rendered possible by the simplicity, purity and economy of direct government; and second, the change of the incidence of taxation from poverty to wealth. The latter is one of the wisest and most significant movements of modern times, and is making its claims felt in all advanced countries. In Switzerland it has been carried far toward perfection.

Direct and non-transferable taxes have been substituted for indirect and transferable taxes, and the direct taxes have been made progressive.

Indirect taxes, or those on commodities imported, manufactured, sold, etc., are transferable from the person first paying them, to the consumer, who has also to pay the said person interest and profits on the capital he used to settle the tax in the first instance, so that the rich importer or manufacturer may actually make money out of the tax system instead of really contributing anything out of his own pocket to the support of the government; while the people who consume the commodities taxed, not only have to pay all the taxes, but the dealers' profits on them besides. The government treasury, after all, only receives \$2 out of every

three the people pay on account of the tax system. If the taxes are mostly on articles of ordinary use, the great body of the poorer people bear the bulk of taxation, and a certain class of the wealthy have no burden, but a profit instead. This trick of indirect taxation is what the French statesman Turgot called "plucking the goose without making it cackle." But the Swiss geese have found out the trick, and have turned it into direct progressive taxation, or the trick of plucking the goose where the feathers are thickest, and where it will hurt the least. In several of the more radical cantons the rich and well-to-do pay nearly all the taxes. In Zurich fifty years ago all taxes were indirect; now \$32 out of every \$34, or over seven eighths of the whole, are raised by direct and progressive taxation on incomes, inheritances and real estate.

In the case of incomes, the largest pay at a rate five times as heavy as the moderate ones. In the case of property, the largest fortunes pay at a rate twice as great as the smallest. In the case of inheritances, the tax has increased more than six fold in the last thirty years. The larger the amount of property and the more distant the relative the heavier the rate.

The poorest laborer pays about 2 per cent. of his wages in taxes, being 15 to 30 per cent. better off than before the present system was adopted; the well-paid clerk pays 5 per cent. of his salary, being 10 to 20 per cent. better off; the business man worth \$50,000 or more pays 10 per cent. of his profits, and rests about where he was; while the large capitalist, worth half a million or more, pays 25 per cent of his income, and so gives back to the public a part of the excess that he receives above what he earns. These laws have done a great deal to aid the diffusion of wealth and check the too rapid growth of overlarge fortunes, and the results are seen in the fact that while Switzerland was until recently very poor, the exchanges of wealth per capita there are greater to-day than in any other country of the continent. "It is an extraordinary fact," says Mr. Sullivan, generalizing from Mulhall's statistics, "that the three million Swiss consume as much wealth as the fifteen million Italians." That is, one Swiss, on the average, eats, drinks, wears, travels and reads five times as much as his Italian neighbor.

Not less important is the second great movement above mentioned—the tendency of the government toward the full control of monopolies, shown in the nationalization of the liquor business, a portion of the forests, life insurance and the means of communication and transportation.

As a result of Direct Legislation Switzerland has adopted national ownership of railways, and has the best system of Federal postoffice, telegraph, telephone and express service in existence. If you receive money by postal order the carrier puts the cash in your hands. The mail is delivered *everywhere*. If you want the express you send the order by the carrier. At any post office you may subscribe for any Swiss publication, or for any of the several

thousands of the world's leading periodicals. Letter postage in Switzerland is one cent local, general two cents, book one cent a half pound, newspaper average two-fifths of a cent; express matter at corresponding rates. With the cheapest postage in the world the profits of the system are large, because the Swiss post-office does not have to pay the railroads monopoly prices for transportation.

In respect to the public telephone, the American Consul at St. Gall reported officially May 5, 1892: "The Swiss telephone service is better and the rates lower than anywhere else in the world."

As to the national ownership of railroads in Switzerland, I refer the reader to the circular issued by the National League for Promoting the Public Ownership of Monopolies, and printed in Chapter I of this book, at the close of the section on "Public Sentiment."

The wonderful success of the Swiss referendum is fully attested by the Hon. Boyd Winchester, our former Minister to Switzerland; Sir Francis O. Adams, the English Minister there; Professor Vincent, of Johns Hopkins University; Mr. McCrackan, Mr. Sullivan, Professor Moses, Professor Dicey, etc. Rev. Lyman Abbott's paper, *The Outlook*, speaking of the strong words of approval eminent observers have bestowed upon the Referendum, says: "Apparently there is no conflict in the testimony." The only exception I know of is Mr. A. B. Hart, who seems to have found some of the people in Switzerland who have lost power and privilege thru the referendum, and were, therefore, inclined to growl about the new institution. Mr. Hart confesses that he went to Switzerland prejudiced against the Referendum, and it is not surprising that he should have found the society of ousted politicians and monopolists so congenial that he neglected to form other acquaintances, and filled his letter to the "Post" with assertions that the Initiative "suggests bad measures" (but the legislature never does; no it will not even *suggest* such things); that the Referendum sometimes "kills good measures" (but of course the legislature never does); that the "Swiss voters do not all come out" (like the Americans do!); and that "the Referendum has disappointed its friends in Switzerland." This "powerful" argument, quoted in substance from one so well prepared by foregone conclusions to make it, would almost lead one to believe that the famous ambassadors, professors and authors previously mentioned had formed a conspiracy to deceive the world about the Referendum, were it not that Mr. Hart, on cross-examination, as it were, corroborates their testimony by saying: "Switzerland is an atoll in the surging ocean of European politics. Here the increasing strain which has come upon the representative institutions of other countries is hardly felt. Here the legislature is free from party organization, the business of the country is well and promptly done, the people are content with their representatives. . . . The process of invoking and voting on a Referendum is simple and easily worked. . . . The system undoubtedly leads to public discussion; newspapers criticise; addresses and counter-addresses are issued; cantonal



councils publicly advise voters, and of late the Federal Assembly sends out manifestoes about pending Initiatives." How does this talk about doing the business promptly and well, and about the people's contentment agree with what Mr. Hart said about "disappointment of the friends of the Referendum?" As to this, one of the leading friends of the Referendum wrote to Mr. Sullivan that it was "deeply rooted in the hearts of the whole people. All parties who formerly opposed the Referendum, even the most reactionary and aristocratic, have declared officially their adherence to the Initiative and Referendum as a thoroly good institution." No one objects to it now but a few individuals who stood in the path of progress and got hurt by the wheels of justice, and who comfort themselves with ungracious talk.

There were objections in plentiful measure during the early advocacy of the wide extension of the Referendum, but experience has shown them all to be fallacious. Here are some samples: "It would do well enuf in the little commune or the primitive forest canton, but never would work in the grand canton of Berne, much less in Federal affairs; that was visionary in the extreme. It was an impracticable thing any way, and would keep the people voting from morning till night. Demagogues would rule the people and pernicious tyrannical laws would be passed. The people were inexperienced, short-sighted, capricious, passionate, and the Referendum would prove the source of great expense and a flood of hasty, injudicious, partisan legislation."

As to expense, we have seen that taxes are lower than ever before, and the government more economical. Jobbery and extravagance are unknown, for the people who pay hold the strings of the purse, and politics, since there is no money in it now, has ceased to be a trade.

Instead of partisan laws, it has been proved that people vote on the merits of the measures submitted, the fate of one proposition having no effect on that of another put out by the same organization, and partisanship is reduced to its lowest ebb, as even Mr. Hart admits.

Instead of causing a flood of hasty legislation, the Referendum has proved a drag on the making of laws. In the twenty years from 1874 to 1894 the Swiss Federal Congress passed 175 laws, 19 of which were called to the polls by a petition for the referendum. Eight amendments to the constitution were also passed and two more suggested by the Initiative. So that the people voted in twenty years on 29 questions, ten of which were constitutional amendments, which go to the people in our states now. Sixteen of the laws and amendments were disapproved by the voters and thirteen approved. Every one of the questions received remarkably lengthy consideration, and most deliberate and dispassionate discussion, the like of which is as yet unknown in America. Passing less than a law a year is not much of a "flood" of legislation from the Referendum, is it? Neither does the suggestion of one law in each two years by the Federal Initiative



seem much like a deluge. In twenty years the legislature of Soleure passed 66 laws; all went to the people, the referendum being obligatory; 51 were adopted at the polls and 15 rejected—less law-making, you see, on the face of the returns, than if there had been no referendum. In twenty years the legislature of Berne passed 68 laws; 50 were approved at the polls and 18 rejected. Berne has half a million people, New Jersey a million and a half. Berne, with the referendum, averages two and a half laws a year, and New Jersey 450. So that per million of inhabitants 300 laws are enacted in the United States to Switzerland's five, or 60 to 1. It turns out, therefore, that the deluge is not with the Referendum, but without it. The obligatory Referendum makes the entire citizenship a deliberative body in perpetual session. It establishes principles and avoids the flood of special legislation that sweeps away all sense of virtue from our statute books. The mass of complex, useless and evil laws that breeds lawyers, courts and police, are in Switzerland not passed at all, with a great reduction in the cost of litigation and police.

Mr. McCrackan says: "The Referendum is above all things fatal to anything like extravagance in the management of public funds; it discerns instantly and kills remorselessly all manner of jobs." And again: "Nowhere in the world are government places occupied by men so well fitted for the work to be performed."

Boyd Winchester says in his "Swiss Republic:"

"One in visiting the chambers of the assembly is much impressed with the smooth and quiet dispatch of business. The members are not seated with reference to their political affiliations. There is no filibustering, no vexatious points of order, no drastic rules of cloture to ruffle the decorum of the proceedings. Interruptions are few, and angry personal bickerings never occur. . . . Leaves to print, or a written speech memorized and passionately declaimed are unknown. There are none of those extraneous and soliciting conditions to invite to 'buncombe' speeches. The debates are more in the nature of an informal consultation of business men about common interests. They talk and vote, and there is an end to it. This easy, colloquial disposition of affairs by no means implies any slipshod indifference or superficial method of legislation. There is no legislative body where important questions are treated in a more fundamental and critical manner.

"The members of the assembly practically enjoy life tenure. Re-election, alike in the whole confederation and in the single canton, is the rule. Death and voluntary retirement account for nineteen out of the twenty-one new members at the last general election. There are members who have served continuously since the organization of the assembly, in 1848. To some extent this remarkable retention of members of the assembly may be ascribed to the fact that the people feel that they are masters thru the power of rejecting all measures which are put to a popular vote.

"The members of the Federal Council can be and are continually re-elected, notwithstanding sharp antagonisms among themselves,

and, it may be, between them and a majority in the assembly. They also continue to discharge their administrative duties, whether the measures submitted by them are or are not sanctioned by the voters. The Swiss distinguish between men and measures. They retain valued servants in their employment, even tho they reject their advice. . . . This sure tenure of service makes those chosen look upon it as the business of their lives. Without this permanence, such men as now fill it could not be induced to do so."

Read also the following from Sir Francis Adams:

"The Swiss voter is quite ready to vote again and again for the same candidates. He probably looks upon them as good men of business, with long experience of parliamentary and Federal affairs, and he knows very well that if measures are passed of which for some reason or other he does not approve, he and his fellows can combine to reject them at the referendum. . . . There have been hitherto only two instances of a member willing to serve not being re-elected. . . .

"The debates are carried on with much decorum. There is seldom a noisy sitting, even when the most important subjects are discussed. Interruptions are few, and scenes such as unhappily have of late been painfully frequent in our House of Commons do not exist. The sittings strike the spectator as being those of men of business, tho the members are by no means devoid of eloquence."

And this from Karl Burkli, a prominent citizen of Zurich, Switzerland

"The smooth working of our Federal, cantonal and municipal referendum is, as a matter of fact, a truth generally acknowledged thruout Switzerland. The initiative and referendum are now deeply rooted in the hearts of the Swiss people. . . . Proportional representation is going ahead in half a dozen cantons (Berne, Basle, Zurich, Lucerne, St. Gall) just now, and six cantons (Tessin, Neuchatel, Geneva, Zug, Soleure, Fribourg) and the Federal city of Berne have already proportional representation.

"Our city or municipal referendum goes likewise very well. So, the town citizens of Berne voted this year (April), per referendum, for instituting proportional representation, and last year the town citizens of Zurich (now the largest city in Switzerland, about 130,000 to 150,000 inhabitants) voted for the appropriation and management by the city of the tramways (street car lines).

"All these divers votings—Federal, cantonal, municipal—went on without riot, corruption, disturbance or hindrance whatever, altho with great agitation. So all is well with us, and you may authoritatively say that there is no agitation for its repeal or difficulty in its working, whether in federation or in the cantons or in the cities, as Zurich, Geneva, Basle, Berne, tho these cities are full of foreign elements. Our Swiss political trinity—initiative, referendum and proportional representation—is not only good and holy for hardworking Switzerland, but would be even better, I think, too, for the grand country in North America."

Mr. A. A. Brown, speaking of what the Swiss have done with di-

rect legislation says: "They have defeated monopolies, improved the method of taxation, reduced the rate, avoided national scandals growing out of extravagance; they have husbanded the public domain for the benefit of their own citizenship; they have destroyed partisanship and established a government of the people; they have quieted disturbing political elements, disarmed the politician, enthroned the people; by vote of the people they have assumed authority over railroads, express companies, telegraphs and telephones, reducing freight rates, express charges and tolls more than 78 per cent. below the cost for like service under private control." (Arena, Vol. 22, p. 98.)

With such a record how can we fail to favor the Referendum? Switzerland has solved her problem by making an *intelligent selection of the best among many local forms and extending its application*. Is there not good reason to believe that we can solve many of our problems in the same way?

21. *Authority of the highest character favors the extension of the Referendum in America.* This point was sufficiently discussed in the first half of this chapter.

22. *The drift of public sentiment sets strongly toward the Referendum.* (See above.)

23. *The trend of events, the progress of civilization, the evolution of democracy and the whole movement of modern history is in the direction of more perfect control of the government by the people, a path which leads straight to the fuller use of Direct Legislation.* (See above.)

24. *The fundamental principles of religion and ethics, the law of love, the Golden Rule and the brotherhood of man necessitates the Referendum.* Love and brotherhood deny me the right and banish the wish to assume more power than my fellows, or deprive them of equal participation in the development resulting from decision and responsibility. Only unavoidable necessity can justify unequal sovereignty, and no such necessity exists in cases to which the Initiative and Referendum can be applied.

25. *The final and fundamental political argument for Direct Legislation is that it is necessary to true self-government.* It and it only can and will establish public ownership of the government. It is the only way to prove and overcome misrepresentation with due precision and prompt-

ness. It is the only practicable *means of destroying the great Lawmaking Monopoly* which holds us in its grip to-day, and which is not only a terrible evil in itself, but the prolific parent and protector of other monopolies and oppressions.

If the control of affairs is put in the hands of a few men for life, without responsibility to the controlled, everybody recognizes the fact that the government is an aristocracy. If the control is put in the hands of a few for two or three years without responsibility to the controlled during that time, there is an aristocracy as much as before. The duration of a government does not fix its character, but the nature of the control; and even if time were of the essence of the case, many a monarch's reign has been shorter than the terms of our President and Senators. To have a government by the people, the legislative agents must be subject to the control of the people every moment. If for one instant they cease to be subject to the orders of the people, for that instant they cease to be servants and become sovereigns in place of the people.

It is true that in the early history of America pure representative government produced good results. It is perfectly possible that in a rural community, where the people are nearly on a level, and no strong class distinctions exist, representative aristocracy might take a course quite close to the one in which self-government would steer the ship of state.

But as the simplicity and homogeneity of primitive society give place to the strong contrasts of rich and poor, millionaire and tramp, Back Bay and slums, educated and ignorant, nabobs and nobodies—as the people crystalize into classes under the influence of selfish competition, and class interests grow intense, facing each other in bitter antagonism—as organizations of men are formed to capture the government and the offices for their own private benefit—the divergence between the people's will and the will of the men who contrive to get themselves elected under the name of "representatives" grows larger and larger, until in some of our cities and states scarcely a vestige of real representation remains, and the government is a despotism.

It has come to be perfectly clear that *representation does not represent*, and a little consideration will show that even under the most favorable circumstances, delegate law cannot be relied on to represent the people's will. The facts are briefly as follows

1. It frequently happens that large masses of people have no representative at all in the halls of legislation. In Minnesota about 44 per cent. of those voting (or 161,000 out of 236,000) have no one in Congress to represent them—no one for whom they cast a ballot or who went from their state to stand for their principles.<sup>1</sup>

In Wisconsin 40 per cent. and in Maryland 46 per cent. of the people have no representative in Congress. In 1892, out of twelve millions voting, five and a half millions had no representative in the national government, and in 1896 again nearly half of those voting had no one in Congress in whom they had expressed their confidence or whose selection as a legislator they had endorsed with a ballot.

2. It is a common thing for one party to absorb far more than its fair share of representation. In 1892 New Jersey cast 171,000 Democratic votes and 156,000 Republican votes. The Democrats got six Congressmen and both Senators, or one national representative to 21,000 voters. The Republicans had two Congressmen or one national representative to 78,000 voters. A little irregular strip in the city of Camden, containing a population of 12,725, constituted one legislative district, and the rest of the city constituted another district, containing 58,311 population; the first contained the democratic strength of Camden, the second was republican; each district had the same amount of representation in the legislature. In Essex county, the 3d Assembly district (democratic), contained a population of 11,349, while the 11th district (republican) contained 42,414, and the average population of all the republican districts was double the average population of the democratic districts.

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<sup>1</sup> Most of the figures at hand relate to state votings for national officers, but the same general conditions exist in local votings.



Let us take the present congress (the 55th, elected in 1896) and tabulate some of the striking facts.

Per cent. of votes cast.						Number of Congressional Districts.
With 54%	the Republicans	of Md.	carried every one	of the	6 districts.	
" 55%	"	" Iowa	"	"	"	" 11
" 58%	" Democrats	" Ga.	"	"	"	" 11
" 51%	"	" Texas	"	12	"	" 13
" 66%	Republicans	" Mass.	"	12	"	" 13
" 61%	"	" Pa.	"	27	"	" 30
" 57%	"	" N. Y.	"	29	"	" 34
" 53%	"	" Ohio	"	15	"	" 21
" 55%	"	" Ill.	"	17	"	" 22
" 60%	"	" N. J.	every one	"	"	" 8
" 60%	"	" Wis.	"	"	"	" 10

These percentages are based on the actual votes for Congressmen. The Republican or Democratic percentage of the vote for Governor or other general officer is very often identical with the same party's percentage in the congressional vote, but in some cases varies a little above or below the latter. For the 54th Congress some of the facts are even more remarkable than any of those in the table. For example, the Republicans of Illinois had only about 51 per cent. of the general state vote and 53 per cent. of the district vote, and yet they elected all but one of the 22 Congressmen. And the Republicans of Wisconsin, with 51 per cent. of the vote for Governor, and 54 per cent. of the district vote, elected every one of the 10 Congressmen.<sup>1</sup>

In the 55th congress, the Democrats of Georgia and Texas had both senators from their respective states, and the Republicans had both Senators from Maine and Iowa, Illinois, Massachusetts, etc.—a fact which in connection with those that precede, supplies the basis for some very interesting conclusions, viz.: That in Massachusetts 1 Republican has more weight in national affairs than 4 Democrats. In Texas, 1 Democrat equals 5 Republicans. In Illinois, during the 54th Congress, a Republican weighed more than 15 Democrats. In Georgia now a Republican weighs nothing at all, and in

<sup>1</sup> The district system naturally tends to exclude a very large proportion (often 40 to 45 per cent.) of the people from representation in congresses, councils, legislatures, etc., and in connection with the gerrymander or the plurality rule, or both, it may even exclude a majority of the people. Imagine a legislative body elected by 40 to 60 per cent. of the citizens voting, and estimate the representative quality of a law passed by a majority of a quorum in such a body—it might represent no more than 12 to 16 per cent. of the voters if honestly passed—not 1 per cent., perhaps, if corruptly passed. Corruption may attain *any* degree of misrepresentation in any legislative body it is able to control. What is the representative quality of a law passed at midnight in the closing hours of a session, with most of the legislators asleep or inattentive, and nobody voting but the man who drew the bill? What is the representative quality of legislation under the Iron rule of a presiding officer who recognizes no one to speak for a measure he wishes to exclude? Representation is but a shell without the kernel, a nest from which the bird has flown. The Referendum will put life once more into the dead form.

Maine and Iowa, a Democrat weighs nothing in national legislation or deliberation.

3. The various classes of society are not duly represented in legislative bodies—not represented in anything like the proportion they actually bear to the social total. We have seen in paragraph 17 what the composition of a legislative body is like. A few years ago I examined the census figures of class enumeration and the composition of Congress, with the following results:

The lawyers, with their families, constitute one-third of 1 per cent. of the people, yet they have 60 per cent. of the Senate and House, and the President also—more than 180 times the representation that belongs to them. The bankers number one-tenth of 1 per cent. of the people, which entitles them to one-half of one representative; but they have ten, which is twenty times their fair share.<sup>1</sup>

The farmers constitute 45 per cent. of the people, and have one Senator and thirty-nine members of the House, or 9 per cent. instead of 45 per cent., as they should have—one-fifth of what belongs to them. The laboring people of all sorts number nearly 80 per cent. of our citizenship. What are their representatives? Where are the Senators and Congressmen who are really workingmen and in full sympathy with them and fit to represent them? The bulk of the community is entirely unrepresented by men of their own class and condition, who are the only ones that can thoroly understand their wants and wishes.

4. Ideas are not correctly represented. Voters in different parties agree on some things and voters in the same party disagree on some. The present methods of voting in city and state elections afford no opportunity, as a rule, for registering this agreement and disagreement. There is no definite representation of the opinions of the voters on matters aside from the main issue, and large bodies of men advocating special measures are entirely excluded from representation in the halls of legislation, not being able under the district system

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<sup>1</sup> In the 53d Congress the bankers had 20 representatives, or more than 40 times their fair share, and the farmers had much less than 1/5 of their rightful representation in the 53d Congress, and also in the 55th.

of representation to elect any one at all to stand for even their main idea.<sup>1</sup>

5. Many a question arises after election during the delegate's term of office which was not considered, perhaps was not even foreseen, at the time of his election. The people had no opportunity of expressing themselves upon it at the polls, and the judgment of the representative in the premises may and frequently does differ from that of his constituents.

6. Even where the people have exprest themselves quite clearly, their views may change. They may elect men pledged to certain legislation and afterward, before the pledge is executed, perhaps, the people see reason to change their minds; but without the Referendum the change cannot be ascertained. Imagine a business man telling his agent to-day to buy certain lands or build a house for him, and to-morrow, concluding he did not want the land or the house, but denied the privilege of revoking his order or modifying his plan!

7. The delegate's self-interest may lead him to disregard the will of the people, even when he knows perfectly well what it is.<sup>2</sup> Under present conditions the delegates may give

<sup>1</sup> Proportional representation will remove the evils of the district system. It would enable each party or organized group of voters to obtain its due share of delegates in council and legislature. But *classes, ideas and interests* would still be far from having a fair representation. The jumble of issues in party platforms and the mixture of measures with persons would continue to make it impossible for the people to give definite expression of their thoughts and wishes. The boss, the ring and the machine would still control nominations in a large degree; the lobby would still corrupt the legislators; questions not considered at election time would continue to come up, and legislators could not be sure of judging as the people would judge. Even in Switzerland, where, according to the latest reports, eight cantons have proportional representation along with the referendum, the legislators are not able to judge correctly of the popular will, and their action is frequently reversed at the polls.

Proportional representation is good; it gives each body of citizens a chance to get some of their ideas represented in the deliberations of legislative bodies; it helps to make the legislative body a picture, on a small scale, of the chief groups in the citizen body; but it leaves the legislative body still subject to the fundamental defect of making law by final vote of a body of delegates. The concentration of temptation, the divergence of interest and thought, and the private monopoly of legislative power, with all their attendant evils remain substantially as at present.

No sort of representation, proportionate or not, can be relied on as truly representative unless it is always under the principal's direction and control, so that departures from his will may be corrected and his views and changes of view be registered at any moment he sees fit. The essential thing is the participation of the people at will in the making of the laws.

<sup>2</sup> In a circular issued by the South Dakota Direct Legislation League I find the matter strongly and clearly stated:

When the vote granting a franchise binds us forever, and our representative can get \$5,000 for his vote, while we only give him \$300 for his year's work (even if we should re-elect him), where is his responsibility?

The state or city is our farm. At present we give our servants (legislators, aldermen) almost unlimited power over it—power to mar it; power to

away public property or take other action which will bind the unwilling people beyond the reach of revocation. For example, the Ohio legislature in 1896 passed a law permitting cities to give 50 year franchises to street railway companies. It is said that the friends of the people as against the corporations did not know of the bill till a few days before the legislature met, and then they learned of the plan by overhearing a conversation on a railroad train. They did their utmost to defeat the measure, but failed. The people were strenuously opposed to such monopolistic legislation, but before they could secure a repeal of the law at the next session of the legislature, the city government of Cincinnati was induced to grant a 50-year franchise to the street railways of that city, and the grant could not be withdrawn.

8. Even with the most virtuous delegates and under the most favorable circumstances, representation cannot truly represent in the absence of the Referendum, because no man thinks or feels just like another, much less like ten thousand others of varying shades of thought and feeling. The records of actual referenda set forth in the early part of this chapter show how impossible it is for legislators to represent the people. Time after time, when a number of constitutional amendments and other measures prepared by legislative bodies with the utmost care, have gone to the people, part or all have been rejected, tho passed by legislature after legislature with overwhelming majorities, and totally free from any suspicion of fraud, being intended from the start for reference to the citizens.<sup>1</sup>

mortgage it—reserving to ourselves scarcely any power except to discharge them after the harm is fully accomplished.

The *city is our stable*, which we commit to these servants, reserving to ourselves only the power to *discharge them* after they have allowed our *horses to be stolen*.

The constitution is our pasture fence; the State is our carriage; our legislators are our horses. With the present arrangements we harness our horses, hitch them (often wild colts) to our carriage, *throw away lines and whip* and trust ourselves to the tender mercies of Providence, which is supposed to have special care of half-witted people. Our horses may balk or lie down in harness, or they may wildly tear over the pasture, down steep gullies, over rocky roads, and finally knock our brains out, but we have all the time the comforting assurance that our bones will be found somewhere within the limits of the seven-rail pasture fence called the constitution. With the Initiative and the Referendum we would be at all times masters of the situation, keeping the government constantly in our own hands.

<sup>1</sup> In 1850, before Switzerland had developed her system of Direct Legislation, Martin Rittinghausen wrote a little book on "Direct Legislation by



In July, '98, St. Louis voted down by more than 4 to 1 a number of charter amendments passed by the municipal assembly. At a special election in '97, three amendments were submitted to the people of New Jersey by the legislature; two carried and the third was lost, yet this third amendment was the very one that the press and political leaders had predicted would carry by a large majority, since it merely gave women the right to school suffrage, which they had already enjoyed for several years under a statute, and which has been conferred in 26 states of the Union. In 1896 two amendments, establishing biennial elections, were submitted to the people of Massachusetts. They were passed by the legislature in the belief that the people would approve the change; they were advocated by leading men of the highest character and statesmanship, both in and out of the dominant party.

the People" in which he gave nine reasons why the "representative system" (i. e., the unguarded system) should not be tolerated:

1. The representative system is a remnant of ancient feudalism.
2. It is absurd to represent a thing by its diametrical opposite, black by white, the general interest of the people by a particular interest opposed to it.
3. Representation in government is a fiction and nothing but a fiction. Representation does not exist, unless that term is applied to a continual antagonism of those whom one is alleged to represent.
4. Even if there happened to be a case of genuine representation thru some undiscoverable paragon of a representative, the majority of the votes of a country would still remain unrepresented.
5. In the elections the intriguer has the advantage over the honest man, because he will not shrink from a number of methods that are disdained by an honorable candidate; the incompetent has an advantage over the man of ability, because three-fourths of the electors vote, and always must vote, without knowing and without being in a position to judge the merits of the candidate. Besides, in this mendacious system of government, the election is itself an absurd sham. You either ask the voter to cast his ballot according to his own personal convictions, upon the strength of his acquaintance with the capacity or honesty or the policy of the candidate, in which case you ask the impossible; or you ask the voter to cast his ballot for a candidate nominated by a convention, and then you have no election at all; you merely have a nomination secured thru a small coterie, itself dominated by motives of personal interest.
6. In a representative assembly many upright natures change their character entirely; the honest man is there, the readiest to repudiate his convictions. There are temptations to which it is only possible to expose men under penalty of seeing them succumb. One of these temptations is the power to enrich one's self or one's family, to rise in the worldly scale; that is to say, to oppress one's fellow creatures without incurring any responsibility whatever. Hence continual apostasies and the impossibility of ever creating a well-ordered majority.
7. The fear of not being re-elected is absolutely without influence upon the conduct of the unscrupulous representative. The more he violates the confidence reposed in him, the more certain he may be of re-election. Hence the most detestable politicians have the longest legislative careers; they survive the fall of all regimes.
8. Under the influence of this same tendency every representative assembly must necessarily be worse than the one preceding it.
9. Representative assemblies are the incarnation of incapacity and evil intent, from a legislative and political standpoint. In legislation they make continual onslaughts upon the liberties of the people or surrender the slender patrimony of the poor to speculators. Politically, the situation is still worse, if that be possible.



The amendments were lost. Governor Wolcott (who was an advocate of the amendments) says in his annual address to the Legislature for 1897:

"On both these important questions, which have demanded so much time of your predecessors, the decision of the people is so emphatic as to afford little encouragement for an early renewal of the discussion."

The best of men, the ablest of statesmen, do not really know what the people want. The only way is to ask the people.

It is clear that the people are not truly represented by delegate legislation. We have some *attempts* at representation, together with *geographical* representation and *boss* representation, and *machine* representation, and *corporation*, *trust* and *combine* representation. Harper's Weekly, discussing "The Breakdown of Legislatures," says:

"Legislatures, as they were originally conceived, are breaking down because the representative character of their members has changed. They have not ceased to represent somebody. They are as responsible now as they ever were in the past; but they represent a small organized element of the voters which is under the control of the 'machine,' and they are responsible to the boss of that machine."

The question of Direct Legislation is equivalent to the question, "*Ought the people's will to govern all the time, or only now and then? Shall the ascertainment and execution of the people's will be made as easy and perfect as possible, or shall it continue imperfect and difficult?*"

Senator Marion Butler says that no man can oppose Direct Legislation "unless he is at heart opposed to popular government."<sup>1</sup>

<sup>1</sup>This is bed rock. To deny the Initiative and Referendum is to deny self-government and democracy; to affirm self-government and democracy is to affirm the Initiative and Referendum. The whole literature of the subject focuses upon that fundamental fact.

Any one who desires to go more fully into the matter will do well to obtain J. W. Sullivan's "Direct Legislation thru the Initiative and Referendum;" The Direct Legislation Record, edited by Eltwed Pomeroy, Newark, N. J.; United States Senate Document, 340, 55th Congress, second session, July 8, 1898, also edited by Pres. Pomeroy; Dr. E. P. Oberholtzer's "Referendum in America" and "King People;" S. E. Moffett's "Suggestions on Government;" W. D. McCrackan's "Swiss Solutions of American Problems," and the chapter on Direct Legislation in "The American Commonwealth," by James Bryce. The larger histories of Swiss institutions men-

John Quincy Adams said that "the will of the people is the end of all legitimate government on earth."

A bit of history and a closing illustration may emphasize the clumsiness of present methods.

The Republican Congress did their best to please the people in 1883, but in 1884 the people express their disgust by electing a Democratic President. The next four years of Democratic rule did not suit the nation either, and it returned the Republicans to power in 1888. They began to apply their favorite remedy, the revision of the tariff, and passed the McKinley law in 1890. The people express their appreciation by almost annihilating the Republican party in the elections of November, '90, immediately after the said law was enacted, and in 1892 Cleveland was again elected and the Democrats had a large majority in Congress. They, too, appeared to think that the tariff was the only thing above ground worth the serious attention of a Congressman (after his own private affairs are provided for, of course, if he is of the sort that has private affairs), and they consequently got out a new edition of the tariff in 1894. Again the people showed their disgust by an overwhelming rebuke at the polls—the Democrats were completely snowed under, the Republicans again put in control of Congress, a large number of People's Party members elected, about doubling their former representation, and indubitable indications of the Republican triumph which came in 1896. Poor, dumb people, with no chance to tell distinctly what they do want, but driven to the clumsy method of changing agents once in two or four years in the hope that one of them may sometime discover what they desire. Poor, de-

tioned in the text when speaking of *The Rising Tide of Thought* may also be read with advantage, and a number of valuable magazine articles may be found by consulting Poole's Index and the bibliography in the *Direct Legislation Record*, June, 1898, pp. 45-50. The reader will find that the first six or seven references (Sullivan to Bryce), together with the present chapter, will afford ample material for any ordinary purpose. This chapter follows an original line of thought, contains a good deal of new matter and an analysis of prior treatments. I owe most to the *Direct Legislation Record* and Senate Document 340, which are invaluable to any student of Direct Legislation.

Since this chapter was set up three valuable contributions to the literature of Direct Legislation have come to my notice; first, Eltweed Pomeroy's article, "Objections Answered," *Arena*, Vol. 22, p. 101; second, A. A. Brown's article, "Direct Legislation now in Operation," *Ibid.* p. 37; and third, the 4 page "Leaflet 1," and 12 page "Study 1," published by "The Social Reform Union," of which the Rev. W. D. P. Bliss, of Chicago, is president.

voted, hardworking agents, truly there is not much comfort in your undertaking at best, for when you think you have got things fixed up beautifully and ask for your reward, you receive a tremendous kick from your dumb employer. Instead of this tedious method of kicking out one agent after another till you find one with sense enuf to discover what is needed, and goodness enuf to do it, how much better it would be if the people were allowed to become articulate, able to express their wish distinctly on each separate issue.

The people are now in the position of a deaf and dumb man who was not permitted to tell what he wanted for dinner except by picking out one of several bills of fare and ordering it as a whole. Each bill of fare had the cook's name at the top and a program for dinner, which in every case included some things the dumb man wanted and some he did not want. As he had to select a whole menu, with its cook, and could not pick out particular dishes, and as the cook used her discretion as to which dishes on her list she would serve, if any, and generally mixed up the food and seasoned it with more regard to her own taste than to that of the dumb man, he was naturally displeased with his diet, and kept discharging the cooks as fast as he could, until at last a wiser and more thoughtful cook than the rest devised the plan of sending a blank sheet of paper and a pencil along with the bill of fare, so that the dumb man could write "yes" after the roast lamb, fried potatoes, charlotte russe, or whatever else he wanted, and if there was anything he desired that was not on the bill of fare he could write the name of it on the blank sheet. After this everything went well with the dumb man; his diet suited his taste and he grew healthy and happy; and he could not do enuf to show his appreciation of the cook's skill in preparing the dishes he called for.

#### SUMMARY STATEMENT.

Law making by final vote of delegates is not self-government, but government by an elective aristocracy.

The REMEDY is the extension of Direct Legislation thru the Initiative and Referendum.

The Initiative is the proposal of a law by a reasonable percentage of the voters.

The Referendum is the submission of a measure to the people for final approval or rejection; obligatory, when all but urgency measures *must* be submitted; optional, when submission may be required by petition of a reasonable percentage of voters; legislative, when the option of submission is in the legislature or council; executive, when the option is with the mayor or governor, etc.

Otherwise stated, the *initiative* is the right of provoking a decision of the sovereign people, and the *referendum* is the right of making such decision.

Direct Legislation is already in full use in town affairs. The *Referendum* is obligatory in the making of constitutions, and quite generally in certain city matters, and it *may* be used in all city and state affairs at the option of the legislative authorities.

All that is necessary is to put the option in the people in the case of city and state enactments (or make the submission obligatory) and add the initiative. In this way the principle of Direct Legislation will be consistently applied from end to end of the scale of legislation.

This has been done in South Dakota by constitutional amendment, in Oregon and in Utah a similar amendment has passed the legislature, Nebraska has a statute giving Direct Legislation to cities at their option, San Francisco has the Initiative and Referendum in its charter, etc.

The movement for Direct Legislation (or strictly speaking, the movement for the extension of Direct Legislation) is growing with astonishing vigor and unparalleled rapidity.

#### REASONS for Direct Legislation:

It will establish self-government in place of government by councils and legislatures; democracy in place of elective aristocracy; government by and for the people in place of government by and for the politicians and the corporate interests whose instruments they are.

It and it only can and will destroy the *private monopoly of legislative power*, and establish *public ownership of the government*. The fundamental questions are, "Shall the people rule or be ruled? Shall they own the government or be owned by it? Shall they control legislation or merely select persons to control it?" The Referendum answers these questions in favor of the people.

It will perfect the representative system, correcting the evils of the unguarded method of making laws by final vote of a body of delegates beyond the reach of any immediate effective control by the people.

It will give the representatives a keener regard for public opinion, and enable the people to pass on their action before it takes effect.

- It will constitute "a curb to the never ending audacity of elected persons."
- It will remove the concentration of temptation by diffusing power; it will no longer pay to spend much time and money bringing strong pressure to bear on a few legislators, because their action will not be final—they cannot deliver the goods.
- It will eliminate legislative corruption, kill the lobby, stop black-mailing bills, discourage log-rolling, check the passage of private and local acts, and close the door to franchise steals and all other sorts of fraudulent legislation.
- The writer of an unsigned article in one of our newspapers, after explaining the workings of Direct Legislation, says with enthusiastic force: "See what splendid and irresistible control it gives the people over the acts of their faithless servants!"
- It will destroy the power of legislators to legislate for personal ends.
- It will infinitely dilute the power of bribery.
- It will take politics out of the slums and civilize them.
- It will abolish the obstructive power of unscrupulous minorities in legislative bodies.
- It will undermine the power of rings and bosses.
- Under Direct Legislation a speaker can no longer play the Czar to any purpose.
- It will lessen the influence of demagogues.
- It will check the interference of employers in elections and diminish their power to control the political action of employees.
- It will diminish partisanship and tend to wipe out party lines in discussion and voting. The records we have given of the use of the Referendum in the United States and elsewhere prove this.
- In its complete form it will enable men to vote their convictions without leaving their party or deserting its candidates, and so will diminish the warping power of party allegiance.
- It will elevate public questions above mere party considerations.
- It will simplify and purify elections.
- It will work an automatic disfranchisement of the unfit, and bring out a fuller vote of the more intelligent and public spirited who now so frequently stay at home because they do not feel like endorsing any of the platforms or candidates presented.
- It will simplify and elevate the law.
- It will stop the prolific output of useless, or worse than useless, laws and ordinances, and limit legislation to the few enactments really needed. The body politic will no longer be disgraced by a fecundity natural only to organisms of a low order.
- In conjunction with municipal home-rule in local affairs it will relieve our legislators from the pressure of multitudinous private, corporate and local measures, and enable them to give proper attention to matters of real importance; 24,000 bills



Introduced in one session of Congress, and in the New York Legislature 1,200 bills, it is said, to change the charter of Greater New York, to say nothing of the mass of other bills in the same session; think of it!

- It will increase respect for the law and aid its enforcement.
- It will develop the people's interest in public affairs.
- It will compel the people to think and act.
- It will elevate the press and dignify political discussion.
- It will suppress the inducements that tempt ambition to pervert the government to private uses.
- It will elevate the profession of politics, weakening the motives that lead bad men into political life and strengthening the attractions of public affairs for men of high character and attainments.
- It will add to the dignity of every citizen.
- It will have a profound educational effect on the people intellectually, emotionally and morally.
- It will favor stability, security and contentment in many ways, affording a natural safety-valve for discontent, and preventing its accumulation, bringing responsibility home to the people, stopping the schemes of political aggressors, etc. Radical changes of policy and delays disastrous to business will become less frequent, because of the speedy consideration and settlement of public questions in accordance with the popular will. It is a guarantee against disorder. Revolution has little chance where the people can easily mould the law.
- It will do more than any other one thing except the growth of sympathy and conscience to secure a peaceful solution of the great industrial problems that are threatening our civilization.
- It will furnish a strong decentralizing, counterbalancing force to save us from the centralizing, combining, trust and monopoly tendencies that are hastening us toward industrial despotism.
- It will save the cost of innumerable impotent petitions and powerless mass-meetings, lobby expenses, abortive investigations, excessive printing of special laws, local acts, private legislation, etc. The cost of legislative sessions of councils, legislatures and so forth could also be reduced; perhaps *one* chamber of moderate size would be sufficient with the Referendum.
- It will put honesty in power.
- It will make the right of petition impartial and imperative.
- It will open the door to all other reforms as fast as the people desire them.
- It will no longer be necessary to wait till the millionaires and political bosses are ready for the curtain to go up.
- Neither will it be necessary to organize a new party in order to carry a reform. The full sentiment in favor of a measure may be expressed at each election and its growth recorded more perfectly than is possible by party action. Existing parties

would be eager to endorse a measure that showed much strength or rapidity of growth, and it would be carried long before a new party could rally half the sentiment that might exist in its favor. It takes a strong pull to break up party organizations and get men away from life-long affiliations. That difficulty in the path of reform would be removed by Direct Legislation.

It is the only way to prove and overcome misrepresentation.

It means the enfranchisement of all voters on all questions at all times, in place of the disfranchisement of nearly all voters at nearly all times on all questions upon which they differ from councilmen and legislators.

It means that the mighty power of the ballot may be used not merely one day in the year, but any day the public good requires—that the great engine of popular sovereignty may be made to move whenever the *people* see fit to turn on the steam.

It means that the people will have constant and effective control of their government.

It is the fulfilment of Lincoln's grand promise and prophecy, "a government of the people, by the people and for the people."

It is required by the fundamental principles of ethics and religion.

The law of love and the brotherhood of man cannot be satisfied without legislative equality. The rule of the few is unchristian—antagonism, not love; mastery, not brotherhood.

It is immediately and easily practicable.

It will make the interest of the lawgiver coincide with justice, and identify power with the public good.

It will suppress class legislation.

It will tend to the diffusion of wealth by depriving the wealthy of their overweight in government and placing the preponderance of legislative power in the great middle and producing classes, whose interests are opposed to vast aggregations of private capital.

Every election is a reference to the people, a submission of certain matters to voters for decision; what we call "Direct Legislation" simply extends the application of the principle and improves the method. Shall we refer things in heaps for a compound judgment on each heap, according to the antiquated method of reference or shall we ask for a judgment on each item?

The referendum will separate the judgment on men from the judgment on issues.

It will disentangle issues and permit each one to be judged on its own individual merits, thus ridding us of our conglomerate politics, with its mixture of issues in complex, ambiguous platforms, each mixture to be taken only with a specified candidate or set of candidates.

It will develop civic patriotism and intelligent participation in public affairs.

It will make the government more flexible, more easily adapted to changing conditions. Constitutions could be changed readily, statutes repealed or vetoed, new measures instituted, "deadlocks" deprived of their force, and the law rendered altogether less rigid than at present.

It will tend to unite the people. Interests and opinions on specific measures do not follow existing lines of division. People will be drawn together across the boundaries of the various organizations. The fibres of political fellowship will run over and thru party walls. The upper classes will take a deeper interest in the lower classes, come into closer sympathy and more permanent contact with them and take a more active part in their political education.

It is the simple common sense right of the people.

One delegate in legislative hall or council chamber can initiate a measure; surely a thousand or five thousand or ten thousand citizens ought to have as much right as a single delegate elected perhaps by themselves.

It will help the people to understand their own affairs, their city, state, nation, the age in which they live—a matter of the utmost importance, which cannot be accomplished without the Referendum, for the people will never thoroly understand public affairs till they are called on to decide them.

Under the Initiative and Referendum, the *people*, with the *co-operation* of councils and legislatures, will exercise the legislative power.

Direct legislation will make it easier to elect good men and to keep them good after they are elected.

It will give the chief power in effective form to the great body of the common people, in whom the main hope of the future lies.

It will give Labor its true weight and influence.

It is the working man's main issue, and is recognized as such by organizations representing millions of the producing classes.

It is not a class movement, however, but will benefit all classes; even the bosses and politicians who oppose it will be lifted by it to a nobler plane of life.

It is not a party movement; leading members of all parties are working for it. It has been demanded in Democratic, Populist, Republican, Prohibition, and Socialist platforms, and sometimes every party in the state has advocated it at the same time. It has been endorsed in 38 state platforms and by more than 3,000 newspapers and magazines representing every shade of political opinion and party affiliation.

Those who believe in *private* ownership of the government do not like the Referendum, but other people favor it as soon as they understand it.

Many regard it as the primary measure,<sup>1</sup> and few progressive people put it below the second place in the list of leading reforms. Anti-monopolists say, "Public Ownership and Direct Legislation"; temperance specialists declare for "Prohibition and the Referendum"; single-taxers write, "The single tax and the Referendum," etc. There is a story of a group of Greek generals choosing a commander-in-chief. Each was to write down his first choice and his second choice. When the ballots were counted, it was found that the first choice votes were scattering, every general having one, but the second choice votes were all for the same man. Each general cast his first vote for himself or his pet friend, but when it came to his second choice he exercised his unbiased judgment and then there was no difference of opinion. This consensus of second choice votes had vastly more weight than any of the scattering first choice ballots and the man each general voted for next to himself or his pet hobby was recognized as the proper commander-in-chief. The application is easy.

Indirect legislation is not much wiser as a rule than indirect love-making. The people get what they want thru indirect legislation about as well as Miles Standish got what he wanted thru representative love-making.

Direct legislation means control of your servants instead of letting your servants control you.

It is simply a common sense application of the established principles of agency, affording the principal his proper rights of veto, instruction, direction, control and discharge.

Analogy calls for it on several essential grounds.

Evolution requires it. Nothing develops manhood like responsibility in large affairs; nothing develops society like universal thought and discussion, social judgment and concerted action of the whole community.

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<sup>1</sup> The American Federation of Labor made Direct Legislation their first and, for a time, their sole political demand. The National Social and Political Conference at Buffalo, July 3, 1899, by practically unanimous vote, adopted Direct Legislation as the first in the list of measures urged upon the people and to which the conference pledged its support in its famous Address to the Public. Direct taxation, public ownership of monopolies and government control of the medium of exchange are also urged in the order stated.

Mayor Jones makes Direct Legislation with direct nomination of candidates by the people, the first plank in the admirable platform on which he stands as independent candidate for Governor of Ohio. Public ownership of all public utilities is the second plank; an 8 hour day and better wages, third; abolition of the contract system, fourth; and state action to secure employment for the unemployed, fifth.

The Social Reform Union puts Direct Legislation with proportional representation first; public ownership of public utilities, second; taxation of land values, franchises, inheritances and incomes, third; money issued by the government only and regulated in quantity so as to maintain a level average of prices, fourth; and anti-militarism, fifth.

There can be no doubt that Direct Legislation is logically the first of all progressive measures in order of time and importance. It is the key to the whole situation. But in *presentation* I have usually found it best to speak of the evils of monopoly and the benefits of public ownership first, to awaken interest and fill the thought with the vital problems which constitute the great need for the initiative and referendum, thereby preparing the mind for a fuller appreciation of Direct Legislation when it is presented.

Justice and equality demand it.

It is necessary to good government.

If Thomas Jefferson was correct in saying that "Governments are republican only in proportion as they embody the will of the people and execute it," and "Government is more or less republican in proportion as it has in its composition more or less of this ingredient of the direct action of the citizens"—if these opinions of one of the greatest of those who formed the national constitution are to be deemed correct—in other words, if Jefferson knew what he was talking about, then the Referendum is required to fulfil the federal constitution, being necessary to carry out the provision which guarantees the States a republican form of government.

High authorities believe it is necessary to the perpetuity of free institutions—the only thing that can check the encroachments of monopoly and corruption.

It is in harmony with American principles. In fact, it is the necessary outcome of their logical application.

It is already a part of the American system of government. All we need is an extension of methods now in use.

Experience in Switzerland, England, France, Canada, Australia and the United States proves the great value of the Referendum.

It has shown itself to be wisely conservative and judiciously progressive, educating, elevating, purifying, non-partisan and patriotic.

It makes for peace. Where the people decide, war will be rare.<sup>1</sup> Eminent statesmen, jurists, philosophers and philanthropists advocate it, and distinguished men and women in every sphere of life favor its adoption.

No one of high authority opposes it, and rarely any one objects to it except those whose political supremacy, legislative frauds, franchise schemes or other selfish interests would be endangered by it.

It is the *line of least resistance* in reform to-day.

The drift of public sentiment sets strongly towards the extension of Direct Legislation.

The trend of events in this country is in that direction.<sup>2</sup> Professor Bryce says (American Commonwealth, Vol. I, p. 447), "The Americans tend more and more to remove legislation from the legislatures and entrust it to the people,"—and the facts of this chapter abundantly confirm this statement.

<sup>1</sup> Switzerland has no standing army. It is forbidden by fundamental law.

<sup>2</sup> In his article on Constitutional Law, in the American and English Cyclopædia of Law, Mr. C. S. Lobinger says that the tendency toward Direct Legislation has rapidly increased since the middle of the century, and has manifested itself in several forms:

"1. In referring matters of local interest and administration to the electors of the locality interested.

"2. In enlarging the scope of State constitutions by adding multitudinous administrative provisions, all of them being submitted to the voters.

"3. In the great popular interest in the Referendum itself." (Vol. VI, 2d ed., p. 1022.)



The whole movement of modern history points to the Referendum. It is the fulfilment of Liberty, Equality and Justice, for which the American and French revolutions were fought and won.

Our century is filled from end to end with the growth of the people's power, and the evolution of democracy must inevitably lead to Direct Legislation along the whole line.

The progress of civilization means the uplift of the common people. Once only the sovereign could make a law; all others were his subjects; now the people make some laws, influence to some extent the making of the rest, and have in *theory* the *right* to exercise the whole power of government; at last the theory will be realized and the people will be sovereign in fact as well as in name,—no laws will be made against their sovereign wish, and all laws their sovereign majesty desires will be enacted—a state of things impossible except thru Direct Legislation.

#### OBJECTIONS.

Objections to Direct Legislation are made by those who do not understand it—those who overestimate the effects of other reforms like proportional representation—those who think the referendum will interfere with the dignity and usefulness of councils and legislatures—those whose personal power would be diminished, or their private interests subjected to the public interest—those who object because of natural inclination to take the other side, or chance prejudice derived from dislike or opposition to the person bringing the matter to their notice or prominently advocating it in their neighborhood—those who are conservative by inherited mental inertia—those who object to change on the general principle that they are pretty comfortable as they are—and those who distrust the people and have aristocratic leanings.

Ignorance, prejudice, self-interest and doubt of democracy appear to be the sources of objection to the initiative and referendum. Given a clear understanding of the facts, the nature and workings of the referendum and of the unguarded system of lawmaking by final voting of the delegates, and the attitude on direct legislation depends on the answer the person would give in his heart to the question, "Shall the government belong to the people or to a class?"

## DON'T UNDERSTAND.

1. Some persons say, "*The Referendum will keep the people voting all the time, and the cost will be too heavy.*" They seem to imagine that the legislature of a state would go on passing six or eight hundred laws a year, and the people would have to vote on them all, and so it would cost an enormous amount of money and time. But we have seen that the great mass of laws is local, and should be left to the municipality, and if they were, the number would be small in each locality; and that the very existence of the referendum would remove the motive and opportunity which produces the greater portion of the laws which remain after subtracting the locals, so that the people of a city or state would not ordinarily have to vote more than once or twice a year, deciding anywhere from one to a dozen questions perhaps each time. After the change was fully made, this would be the case even under the obligatory referendum; and during the transition the optional referendum could be used, so that the amount of voting done by the people need not be heavy at any time.

Most of the referendum voting will probably be done at the regular elections, without additional expense of any amount. And the cost of petitions and whatever special elections may now and then be needed will be more than balanced by the great economies resulting from purer government and fewer laws. All this is clear in reason as we have seen, and has been proved in the history of Switzerland. But even if it were not so, the matter of cost is infinitely insignificant in the light of the political and social benefits of Direct Legislation.

During the campaign in South Dakota some of the citizens thought that the whole of the law to be voted on would have to be printed on the ballots and distributed to the voters. This, of course, is entirely unnecessary. The law can be published in the newspapers or in bulletin form and put within easy reach of all the people. The citizens can study its provisions at their leisure, and then a few words on the ballot to indicate clearly which law is being voted upon will be sufficient.

Finally, it must be remembered that to attain the end desired by Direct Legislation, it is by no means necessary that the people should vote on every measure passed by councils or legislatures; it is sufficient if they have the power to do so whenever they wish. The very existence of the power of popular revision and veto will obviate to a large extent the necessity for its use by preventing the passage or even the introduction of the great mass of corrupt and private bills which would have little chance of passing muster at the polls, and which if passed by the legislature or council would almost certainly be summoned before the people and vetoed by them. An officer does not ordinarily have to use his billy or pistol to stop a wrongdoer who is in possession of his senses. An employer is not obliged to keep suing or discharging his agents in order to get them to obey his instructions, the knowledge that the principal possesses the power to enforce his wishes impels the agents to respect them. So it will be with the people's wishes under the Referendum. The larger part of the most objectionable legislation will not have to be killed; it will die of discouragement and the powers of Direct Legislation will be invoked for the most part only to correct the honest errors of judgment on the part of legislatures and councils.

2. Some other persons who don't understand say that "*the referendum is a foreign affair, an un-American idea.*" The fact is, as we have seen, that the referendum has been practised in America from the beginning. But if it *were* a foreign idea, that would not prove it a false one. I never heard that the multiplication table, or the golden rule, originated in America. They seem to be foreign ideas, but they are pretty good ones, just the same. And even the steam engine is not indigenous to the soil, altho we find it quite useful and entirely worthy of adoption.

3. Sometimes Misconception says, "*So you think direct legislation is a panacea, do you? Well, you are altogether mistaken; it will not accomplish what you hope from it.*" The reply is that we do *not* deem Direct Legislation a *panacea*, but merely a very valuable remedy. It cannot of itself cure

all diseases incident to humanity, but it will greatly improve the circulation, purify the blood and give the natural recuperative power full opportunity; and *these* in time *may* cure the body politic completely. We *know* the referendum is *able* to accomplish what we hope from it, because it *has* accomplished it wherever it has been given the chance, both in Switzerland and in the United States.

4. A more specific objector may say, "*The referendum cannot overcome fraud and partisanship, for the power of appointment to thousands of lucrative offices will still remain in the hands of politicians and representatives.*" We have not claimed that Direct Legislation would, of itself, overcome *all* fraud and partisanship, but only *legislative* fraud and partisanship; administrative abuses would remain until the people adopted a proper civil service, the attainment of which would be greatly facilitated by the referendum, for nine-tenths of the people are strongly in favor of conducting public affairs on sound business principles. The referendum, of course, would not enable the people to *execute* the law in person. But abuse of administration is much more easily checked than corrupt *legislation*. You can tell what a man *does* much better than what he *thinks*. To discover the secret motive of a legislator is a far harder task than to watch the actions of a mayor or governor. In this important distinction lies a most vital political principle, of which the referendum is the full expression. The law will have to be administered by judges, police and other agents, whether legislation be direct or indirect. But once in full use, the referendum will substantially rid the country of legislative abuses, and give the people an easy path to the destroying of administrative abuses, especially if the Recall or Imperative Mandate be put in vigorous use along with the legislative forms of initiative and referendum.

#### OVERESTIMATE OF SOME OTHER REFORMS.

5. The second class of objectors tell us that *all we need to do is to elect better representatives—proportional representa-*

*tion and care in the selection of candidates will give us a good government without direct legislation.* It is true that much may be done along these lines; but they are not in themselves sufficient. We have already shown that representatives cannot really represent their sovereign, even with proportional representation and careful selection. Self-government can never be complete without Direct Legislation. Neither will the educating, simplifying and purifying effect of the referendum be attained with anything like the same ease and rapidity in any other way. We believe in the measures proposed by these persons, but the referendum is needed also; we are not willing to take a couple of spokes in place of a complete wheel.

#### DIGNITY OF COUNCILMEN AND LEGISLATORS.

6. The third class of objectors consists of honest legislators and their friends, who think that "*the dignity of councils and legislatures would depart with the advent of the referendum.*" We may remark, at the first, that if a measure is for the public good, the dignity of a legislature has no excuse for standing in the way; it must yield if it conflicts with a just and beneficial movement. But in the second place, it is perfectly clear that legislative dignity and honor will not suffer, but be exalted by the change. The dignity of a delegate to a constitutional convention is greater than that of a member of the legislature; yet all of the decisions of the convention are subject to approval by the people. The dignity and honor of the legislators in Switzerland is greater since the introduction of the referendum, because a nobler class of men go into politics. The referendum takes nothing from the power of the legislature but the power to keep the people from having the laws they want—nothing but the power to do wrong. The people will still desire the aid and advice of men of legal learning in the framing of their laws. They will revere the legislative lights more than they do now, because they will live in a purer atmosphere, and be farther removed from suspicion of self-interest, and be more likely to



be men of high ability and character on the average than now. In another way the referendum will help the legislature; when a law is passed that the people do not want, or a law is not passed that they do want, instead of their having to rise and turn out the legislators in order to obtain their will, they can leave the legislators quietly in their seats and turn down the law they object to, or propose the one they desire.

The referendum ought to commend itself to honest legislators, because it will do more than anything else to *lift* their profession out of the mire and free it from scandal, and because it is in line with the duty they owe to their sovereign. As Hon. Thomas McEwan told the New Jersey legislature in committee of the whole, January 29, 1895:

"It is only going back to first principles; all the government we have comes from it. We representatives are here only because the people believe we will do what they wish; that is why they sent us here. We are merely agents, bound in honor to do what our principals want done. It is our duty first to carry out their wishes as well as we can, and second, to recognize the fact that we may err, and to provide therefore a simple way in which the people may tell us whether we have done so. Sometimes in the best of legislatures laws are passed that are unsatisfactory to the people, and there ought to be an easy remedy in such a case, to enable the real sovereign to say that the work of his agents does not suit him. That simple remedy is the referendum."

#### WHAT USE WILL THE LEGISLATURE BE?

7. Another class of objectors is concerned not so much with the dignity of the legislature as with its usefulness. "*What is the use of councils and legislatures,*" they ask, "*if the people are to make the laws?*" One would think a person of ordinary common sense would not need to ask this question, yet it is asked time and time again by members of legislatures before whom the referendum amendment is advocated. The referendum leaves summary measures for health, peace and safety in the care of the legislators, as at present, and also leaves them full powers in every other direction, subject only to revision by the people. The legislature becomes the *emergency ruler* and the *universal advisor*—the most im-

portant advisory body in the commonwealth. Is that being of no use? You might as well say, "Of what use is a constitutional convention if the people are going to vote on the provisions it recommends?" or "Of what use is the architect if you are going to determine whether or no the plans he makes shall be carried out?"

These objectors sometimes put their questions thus: "*Why not accept the work of the representatives as final?*" This whole chapter is an answer; two reasons may be restated: First, because representatives are not *rulers*, but *agents*, whose plans should always be subject to the principal's orders. Second, because those who are *called* representatives are very often *misrepresentatives*, and the work they do is not in accord with the people's will, as is shown by the frequent reverses they meet in their candidacy for re-election, and by the disapproval of a considerable portion of their work when the referendum is applied to it. Even when the legislator does his best to represent the people he may not succeed, because of the difference in reasonings, interests and prejudices; and even if he succeeds, the fact cannot be known except thru an expression of opinion by the people.

#### THE CONSERVATIVES.

8. The attitude of some, if put into words, would be something like this: "*I'm pretty comfortable; let things alone.*" Such a position will not be taken, of course, by any man of sympathy and conscience—he must be satisfied that other men have comfort, liberty, justice; nor by any man of energy and intelligence, for he will not be satisfied with present conditions while improvement is possible.

9. The conservative does not generally put the true psychology of the position into words, but finds some specific fault with the movement. "*It is unwise.*" Read over this chapter, or the Summary Statement, please, and then look me straight in the eye and say "The referendum is unwise." If you can do that and give me a *reason* for such opinion other than a mere prejudice or misconception or selfish interest, I will do my best

to have your name enrolled in the list of great discoverers. Some people, when they do not like a thing, but have no reason fit for publication, are accustomed to look very solemn and say, "It is unwise."

10 "*It is cumbersome*," another conservative says. Well, let us see. Which is the most cumbersome? to vote on a few simple propositions now and then, or to pile up five hundred laws a year in state after state? to sign a few petitions and register a few decisions, or to bear the burdens of corrupt legislation, lobby-made law, bosses, rings, machines, party despotism, private monopoly of government?

11. "*It is dangerous to capital*," says another. No, not dangerous to *capital*, but dangerous to the unfair acquirement, unjust distribution and corrupt use of capital—not dangerous to good wealth, but very dangerous to bad wealth, or rather, to the schemes of the owners of it.

12. Another who has an aversion to change as a thing that is totally opposed to his constitution and by-laws, looks at the referendum and some of its claims, perhaps, and remarks in a fretful or maybe a pugilistic tone, "*Things are getting better, why can't you let 'em alone*." They never would have got any better if they *had* been let alone, and the less they are let alone the faster they'll get better. These conservatives talk about the referendum and other needed reforms just as the Chinese talk about the introduction of the railroad. "The locomotive is a noisy monster. It screeches and keeps people awake. The railroad will overturn our methods of transportation and destroy the dignity of our carts and palanquins. The manners of the trainmen are bad, and traveling in the cars makes many people ill. Sometimes persons are killed by passing trains and property rights are disturbed by railroads. It is true that they carry freight and passengers more quickly and cheaply than our methods can, and people would get what they want when they want it more nearly than now, but that is nothing compared to the noise and trouble of change." It is almost impossible to convince these chronic rebels against progress, because it is not a matter of reason with them, but of feeling. Logic is a thing they have little

acquaintance with, or congeniality for, if it threatens their ease or impinges upon their mental, moral or physical inertia.<sup>1</sup>

The final answer to all the conservatives is that Direct Legislation is more conservative than unguarded representation. The people would pass some laws that the representatives would not, but they would refuse to pass a far larger number that the representatives would and do enact, many of them the most dangerous and radical private and class enactments.

In the ten years from 1874 to 1885, eighteen measures passed by the government of Switzerland were sent to the referendum, and thirteen of the eighteen were rejected. Other facts of the same nature will be found in the section on "The Use of the Referendum." Boyd Winchester says: "The history of the referendum confirms the fact that as a rule the people are not favorable to legislation, and that the necessity must be great and the good ends aimed at very manifest to withstand direct consultation of the constituencies."

#### DISTRUST OF THE PEOPLE.<sup>2</sup>

13. "*Hasty Legislation!*" says one of those who doubt democracy. "The people will pass all sorts of laws without sufficient consideration." For answer, in addition to what has just been said, take this from Sir Francis Adams, British Minister to Berne, Switzerland:

"The referendum has struck root and expanded wherever it has been introduced, and no serious politician of any party would now think of attempting its abolition. The conservatives, who violently opposed its introduction, became its earnest supporters when they found that it undoubtedly acted as a drag upon hasty and radical lawmaking."

<sup>1</sup> There is a class of people who would not like to be classed as conservatives (and some of them really have progressive ideas of a timid, hesitating variety) who tell us they "believe in the Referendum, it will be a good thing when the time comes, but we are not ready for it yet." Not ready for it! Not ready for pure government in place of corruption? Not ready for a means of checking the overgrown power of monopolists and politicians? Not ready to stop misrepresentation and establish a real republic in place of an elective aristocracy? Not ready to let the sovereign people say what they want? *America* not ready to take a progressive step already successfully taken in Switzerland? Bless you, friend, invent something else.

<sup>2</sup> For a discussion by Eltweed Pomeroy, throwing additional light on the inadequacy of the objections to Direct Legislation, see "Objections Answered," *Arena*, vol. 22, p. 101, appearing after this chapter was in type.

And this from Professor Bryce's chapter on Direct Legislation in the United States:

"A general survey of this branch of the inquiry leads me to the conclusion that the people of the several states in the exercise of this, their highest function, show little of that haste, that recklessness that love of change for the sake of change with which European theorists, both ancient and modern, have been wont to credit democracy."

14. Another objector tells us that "*The people are not competent to make the laws. Many laws are too complicated for the people to understand; it takes lawyers to comprehend them.*"

Exactly, and that is the kind of laws we want to stop. What right has a court or policeman to arrest and punish me for violating a law I can't understand, even if I read it and study it? Have I to get a lawyer to explain the 13,000 odd statutes to me every year? It wouldn't protect me if I did; for the lawyers don't know what the laws mean a good deal of the time, and are continually wrangling over them; the legislators that have passed them don't know what they mean, but have to ask the supreme court; and even the judges have a good deal of trouble to find out the meaning, and frequently disagree among themselves about it. It's these complicated laws which people can't understand that we are going to get rid of (for one thing) with the referendum.

But there is another answer to this objection: Even if some of the laws submitted are complicated and the people consent to consider them on their merits instead of ordering them back for simplification, as they would be apt to do, still we have seen by the records that there is an automatic disfranchisement of the unfit in most referendum votings, which is the reverse of what takes place in many legislative votings on private measures, etc.

Moreover, it is hard to see why it is any more difficult to vote for a complicated measure than for a *complicated man*—to vote for a man under present conditions is to vote for a whole statute book full of complicated measures, many of them not yet formulated or even dreamed of.



15. There are people who have *no faith in popular government*, regard it as dangerous to property and likely to result in unjust revolutionary measures—"government by holding up of hands," "mob-rule," etc., and would like, with Carlyle, to hear the people cry, "O, my superiors! my heroes! come down and rule me as thou seest best! *compel* me to do thy sovereign will"—provided *they* were recognized as among the heroes.

Carlyle and all his spiritual relations have missed these two great truths: First, mankind has discovered that no man can be trusted to govern others according to his own sweet will, or even to decide what the people's interests are; for prejudice and self-interest and narrow knowledge make it impossible for any one but the people themselves to give a correct decision on that point; even the people may not always judge rightly, but if they have reached a reasonable degree of development they'll come much nearer to the truth for themselves than any one else can be trusted to come for them. Second, the true ideal is not a society in which the masses of the people are incapacitated for self-control, but a society in which every citizen is capable of self-government; wise enough and good enough to be worthy of a voice in the management of the social partnership. We *do* want government by our heroes, but we also want government by all for all; and the only way to combine the two is to make all men heroes. It was for that, ultimately, that the world dethroned its monarchs, and gave the scepter to the mob. After humanity has so far developed that democracy does not involve an irretrievable loss of progressive power, then the only way to transform the mob into manhood and make it completely worthy of sovereignty is to place the burden upon it and let the responsibility mould it into fitness for the work. The people will learn how to govern themselves much faster by doing it than by watching the politicians do it, just as a boy will learn how to skate or to play the cornet far better by skating or playing himself than by looking at some one else perform.

The Carlylians fail to note that

Self-government is necessary,

1st. For liberty and justice.

2d. For education and manhood.

The people of the United States are not a mob; they have not on the average so much genius as Carlyle, but they have better digestion and more common sense.

16. To pursue this topic a little further, some of these people who would reverse the wheels of progress, undo the whole of modern history, abolish manhood suffrage and establish a high property qualification or some other sort of recognized aristocracy—some of these radical retrogressional objectors to popular sovereignty, the sovereignty of the people, say that Direct Legislation is “*a new trick to get wisdom out of foolishness.*” Well, you can get it out of foolishness sooner than out of corruption. But it will not come out of foolishness. The average American citizen is quite equal in sense to the average politician; much more progressive, and vastly superior in morality. He does not know so much of legal forms as the legislator, and he won’t refuse the guidance of the legislator in that respect; but when a law is formulated, he can tell whether it will suit him or not a great deal better than the legislator can, even if the latter is perfectly honest.

If the masses of people are a condensation of foolishness, it is curious that the greatest legislators all over the Union should spontaneously and unquestioningly have entrusted them with the adoption and amendment of the fundamental laws of the states, the constitutions. And if the people can be trusted with the settlement of the great principles of government, as experience has shown that they can be, surely they can be trusted to determine the by-laws.

Moreover, the people do continually act upon the by-laws, in town-meetings, city votes and the election of candidates on party platforms. It will not be so difficult to vote on each issue separately as to decide about three or four platforms, with many issues in each, plus the personalities of several candidates. It requires more intelligence to arrive at a clear judgment on a lengthy platform than on propositions submitted singly. Direct Legislation will simply enable the people actu-

ally to accomplish in an easy, inexpensive and scientific way what they are and in this country always have been endeavoring to accomplish in a very rough, expensive and ineffective way.

#### PERSONAL INTEREST.

17. Another class of objectors consist of *politicians, monopolists, lobbyists*, and others who realize that their selfish interests would be injured by the referendum, or, in fact, by any improvement in legislation tending to bring it into closer harmony with the public good. The motives of this class are not very fragrant, but it is at bottom the most rational of all the classes we are considering, for there is no doubt of the correctness of the idea on which their opposition is based. Of course they do not say much about the real foundation of their objection. They do not say, "*We are making a good thing out of the present system of legislation, and we don't want to let the people in; we don't want so many partners on the ground floor.*" Instead of such a frank avowal, they adopt the errors and sophistries of preceding classes, and ring the changes on "*complicated laws,*" "*hasty legislation,*" "*foreign idea,*" "*too expensive,*" adding, perhaps, that the words "*initiative and referendum*" are pedantic and un-American, which may be true, but has no more to do with the nature of Direct Legislation and the advisability of adopting it than a man's name has to do with his character and the wisdom of employing him to clear out your stable or build your house.<sup>1</sup>

18. "*It is impracticable,*" I have heard monopolists and politicians say. Get out your statute books and your histories

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<sup>1</sup> Persons of this class have even been known to say to the advocates of the referendum, "You propose then that five per cent. of the voters shall overrule the will of the majority?" Such was the question of the chairman of the Senate Judiciary Committee, in a legislative investigation, Feb. 12, 1895. Did he really think that was what the referendum would do? or was he trying to "bluff" the witnesses—a game which could only work in case of their sublime ignorance, and the equally colossal incapacity of the listening legislators, who were to be influenced by the chairman's question. In either case, if we have legislators who can ask or be influenced by such questions as the above, after having the amendment carefully read to them, and knowing that the only right given to 5 per cent. of the voters is the right to *petition* that a matter be submitted to the people for the very purpose that the will of the majority may rule instead of the will of the minority, as is possible when such a vote is not taken—if we have such legislators, it is surely a powerful reason for some change that shall take the right of final decision away from such men.

and see. Read Oberholtzer's "Referendum in America" and your authorities on constitutional law. You monopolists of government and industry know very well that the referendum is practicable, and that you are afraid of it.

19. "*Because it works in Switzerland is no sign it will work here.*" Yes it is *some* sign that it will work here. The fact that it works in Swiss cities and cantons and in the nation is a pretty good sign that it will work in our cities and states. But we do not need this sign, for we have a better one, viz., that it *has worked* in our cities and states in numerous trials extending thru many years, and all we ask is a fuller use of what we have abundantly shown our ability to use. We have proved that we can swim; untie the rope. As to the nation the problem may not be as clear as we might desire, but the referendum in city and state comes first, and that is perfectly clear; the rest will be equally clear when we come to it.

20. "*Direct legislation violates the representative principle.*" This is not true; direct legislation is necessary to the perfection of representation. It is lawmaking by final vote of the delegates that violates the representative principle by producing innumerable *misrepresentations*. Speaking of this objection Mr. Moffett says:

"The Teutonic device of representation was such a convenient substitute for the unwieldy popular mass meeting that it gradually came to be looked upon as a political end in itself, instead of as a convenient means of enabling the electorate to evade the limitations of time and space. . . . The representative system is a convenient medium for the transmission of political power, just as a system of shafts and pulleys is a convenient medium for the transmission of mechanical power, and it would be precisely as reasonable to object to a plan for gearing a generator directly to the machine it was to work as a violation of the shaft-and-pulley principle, as to object to a practicable plan of direct legislation as an infraction of the principle of representation."

21. "*It would reduce the legislature to an advisory body.*" Not quite; it would be advisory as to matters which went to the people, and acting agent as to the rest. To make the legislature more than an advisory body as to measures on which the people wish to express themselves, is to give the

legislature the power of overruling the people and make them sovereign in place of the people.

22. *"The people can't frame the laws for an initiative; they don't know enuf."* There are plenty of experts the people can get to do that. The people can tell whether the law is what they want when it is framed, and that is the important matter for them.

23. *"The people don't want to vote on measures; the vote is always smaller than for candidates."* Not always, but usually it is so, because, as a rule, the less intelligent do not understand the referendum and omit to vote. But this does not show any lack of desire for the referendum on the part of the great mass of the people. On the contrary, the growth of the demand for direct legislation exceeds anything in the history of reform.

24. One of the great standbys of the more intelligent of the supporters of the legislative aristocracy is the assertion that *"the referendum will be unconstitutional, because it is not a republican form of government."* If so, every state in the Union, except Delaware, has violated the federal constitution by adopting and amending its state constitution thru the referendum, and there is only one valid state constitution in the land, the rest being void, because made in violation of the federal law. We have seen that Jefferson declared that the republicanism of a government is proportioned to the direct action of the citizens in it,<sup>1</sup> wherefore no form of government can be completely republican without Direct Legislation; and instead of forbidding Direct Legislation the National Constitution requires its adoption in every state of the Union, if the guarantee of republican government in every state is to be completely and perfectly fulfilled.<sup>2</sup>

<sup>1</sup> "Government is more or less Republican in proportion as it has in its composition more or less of this ingredient of direct action of the citizens." (P. 605, Vol. VI, of the H. A. Washington Edition of Jefferson's writings.)

<sup>2</sup> The Standard Dictionary, latest of all, says: "Republic: A state in which the sovereignty resides in the people, and the administration is lodged in officers elected by and representing the people, \* \* \* sometimes military, as in Sparta and the earliest Roman republic, sometimes a well nigh pure democracy, as in the first French republic, or as in Switzerland, with its referendum."

The usage of English speaking peoples fully justifies the definition, for the Greek democracies, where the people made the laws, and even sat "en masse" to exercise the judicial function, are everywhere spoken of as



25. Thus all objections utterly fail, and the mighty array of positive arguments is left without a breach. To pass the main points in brief review:

The referendum will abolish monopoly in lawmaking, make plutocracy impossible, establish a real government by the voters, open the way to new reforms, bar the path of fraud, rout the lobby, weaken the corrupting power of wealth and monopoly, keep the representative to his duty, rebuke partisanship, make gerrymandering useless and a deadlock impossible, discourage favoritism, extravagance and legislative theft, lower taxation, cut down exorbitant salaries and in every way conduce to an economical administration of public affairs, decentralize power, simplify elections and the law, stop the killing or shelving of bills in committees and the passage or introduction of blackmailing acts, save much of the time now wasted in party disputes, personal politics and angry debate, favor stability and careful legislation, disclose the strength of malcontents and afford a safety valve to discontent, elevate the press, educate the people intellectually and emotionally, develop their reason, sense, dignity and patriotism, make the public welfare hinge directly on the morality and intelligence of the masses and bring the best men to the front as their leaders.<sup>1</sup>

Experience, reason and the drift of public sentiment combine to emphasize the value and importance of the referendum, and after all it is simply the putting in practice of the American idea of the sovereignty of the people. The federal constitution begins "We, the people, do ordain and establish."

republics. Webster's dictionary calls them republics. And Switzerland, the land of the referendum, is known the world over as the "model republic."

In South Dakota and Oregon, where direct legislative amendments have been passed (and in S. Dakota adopted) there has been no claim of unconstitutionality by the opponents of the measure.

If Direct Legislation was unconstitutional, it would not prove anything except the necessity of amending the constitution.

For a fuller treatment of this objection, see my chapter on Objections in Senate Document, 340, 55th Congress, second session, July 8, 1898, pp. 146, 8.

<sup>1</sup> *Nomination by direct ballot or petition of the people.* Instead of nomination by party caucus or convention, will help to make public spirit and fitness for office the vital elements in the selection of candidates instead of particular service and corporate or factional allegiance. The separation of state and municipal elections by some weeks or months, and insistence on electing local officers on local issues and not upon national issues will also aid in the due subjection of party. Everything that tends to overcome the rule of blind unthinking partisanship ought to be welcomed by all true-hearted public spirited citizens.

The first clause of Jefferson's formula for democracy is, "The people to be the only source of legislation." Napoleon's eagle vision caught the truth when he said: "Free nations have never allowed the direct exercise of their sovereign power to be taken from them. This new invention of the representative system destroys the essential base of a republican commonwealth." May the time soon come when we shall make good our loss, and the budding flower of liberty shall bloom in full perfection!

Let us work for  
Direct legislation by the people.  
Direct nominations by the people.  
Direct and immediate recall of recreant officers by the people.  
i. e.  
Instruction, veto,  
selection, discharge  
by the sovereign people.

### CHAPTER III.

## HOME RULE FOR CITIES.

### THE BONDAGE OF CITIES MUST CEASE.

Our law classes cities with women as having no right to self-government—a fact which may be regarded as affording legal grounds for the custom of calling a city “she.” A few illustrations will show how absolutely cities and towns are subjected to the control of the state legislature.

1. One of the strongest illustrations of the severe State paternalism to which our cities are subject is the fact that a city of half a million people cannot connect two of its own public buildings with an electric wire, the city being unable to obtain legislative permission against the opposition of the electric companies. Boston is the city of which I am speaking. A little while ago she wished to run a wire from the City Hall to the Old Court House, either over or under the little back street 50 or 60 feet wide that lies between the two buildings. The object was to enable the city to light the Old Court House from the dynamo in City Hall. A bill was introduced for the purpose, accompanied by petition of the mayor of Boston (House Bill No. 747, 1898), but the electric companies did not wish municipalities to use a dynamo in a public building to operate lights outside of the building, and the Legislature refused to pass the bill, and Boston cannot run a wire between two of her own buildings over or under her own street.

A municipality has no independent initiative of its own, and it is the only human thing in America that hasn't got it. The nation has a right of independent initiative in national affairs, the state in state affairs, and the individual in individual affairs, but the municipality must have *permission* from the legislature for everything it does.<sup>1</sup> If Portland wants to establish

<sup>1</sup> It is bad enough to hold life as a tenant at will, but even that might be endurable if the city were allowed to have the attributes of a living being while entrusted with existence. But, to have no power of self activity; to be *required to get permission to move*—that is unbearable.

a gas plant, she must consult with Augusta, and Bangor and Dickeyville, and all the other towns and cities in the state, and get the consent of their representatives in the legislature. If Salem, learning of the great success of municipal telephone exchanges in other countries, desires to build such a system for herself, she must ask authority of a lot of men from Boston, Worcester, Springfield, Osterville, Lenox, etc., who mostly know nothing about Salem, or municipal telephones and are much more apt to feel an interest in the Bell Telephone Company than in a municipal exchange in Salem. When Syracuse wants to build an electric light plant, or a subway, she must ask permission from a body of men representing Albany, Buffalo, Rochester, New York, Brooklyn, Birmingham, Rynex's Corners, Smith's Mills, Phillips Creek, Poolville, and all the other 3,000 cities and towns of the state, and representing also, even more accurately perhaps, a large number of powerful corporations, whose interest it is to do all in their power to prevent Syracuse or any other city or town from establishing a municipal lighting plant, or taking any steps in the direction of a municipal street railway. Such undertakings are clearly beyond the individual sphere. Each individual cannot build a street railway, or a telephone system for himself. And they are not state interests. Albany and Buffalo have nothing like a common interest with Rochester in the water, gas, electric light, or telephone system of Rochester, and should have nothing like equal powers of decision in respect to the Rochester gas works, or telephone plant; yet, under the present system, Buffalo and Albany have more to say as to what shall be done with Rochester telephones and gas pipes than Rochester herself. Yet the interest is distinctly local, and the final power of decision and right of control should be local, subject only to broad general provisions, to give the people a firm grasp of the city government, and secure deliberation, harmony and just dealing.

2. The legislature has such power over municipalities that it can plan and construct the public buildings of a city without reference to the wishes of the citizens, and then compel them to pay for the work. In 1870, the legislature of Pennsylvania

arrived at the conclusion that Philadelphia should have a new city hall; so it passed an act to that effect, naming certain gentlemen as commissioners to erect the building, with absolute power to create debts for that purpose, and require the levy of taxes on the city for their payment. The act was held constitutional,<sup>1</sup> and for about a quarter of a century the people of Philadelphia have been paying enormous sums, millions more than the buildings were fairly worth, for work they did not authorize, and over which they have had no control, altho it consisted simply of the construction of municipal buildings for their own city—a remarkable example of the intense paternalism (to use the mildest word that suggests itself) to which the law subjects municipalities. It would be deemed a very strange thing for the legislature to say to an individual citizen: “Mr. Smith, your old brick house is getting a trifle small for you and your servants, and isn’t very handsome anyway; you are able to build a palatial marble dwelling, and I guess we’d better have it done. I’ll plan the thing, and see it constructed to suit my taste, and you can pay for it, as you are the one who will have to live in it.” The courts would not allow the legislature to act in this way toward a single individual, but a million individuals who constitute a city must be left, in such a case, entirely at the legislative mercy.

3. Another proof of municipal infancy is the fact that the legislature may compel a city or town to pay a claim made against it, altho such claim has been denied by the courts and may have no foundation in law or justice.<sup>2</sup> If the legislature ordered Mr. Smith to pay Mr. Jones the amount of a claim made by Jones upon Smith, which had been tried in the courts and rejected, or if the legislature should order the Boston & Albany, or the Pennsylvania Railroad, or the Adams Express to pay such a claim, the courts would unhesitatingly declare the act unconstitutional; but a million men in a public corporation have almost no rights which the legislature is bound to respect.

(1) Perkins v. Slack, 86 Pa. 270 (1878).

(2) 13 N. Y. 143. If the claim were *manifestly* without any foundation, legal or moral, the legislative order might be held void as amounting to taxation for private purposes (see 64 N. Y. 92, 99). But, if the baselessness of the claim does not *appear clearly* on the face of the facts before the court, the legislative order will stand.



4. It is held that the legislature may take city water works, or gas works, or other municipal properties entirely out of the hands of the city, and give the management of them to state officers.<sup>1</sup>

5. A franchise granted by the legislature to a city or town is not a contract. A franchise to establish, own and operate ferries, water works, gas works, electric plants, street railways, etc., is a franchise if granted to an association of stockholders constituting a private corporation, and is protected by the Federal Constitution, but is *not* a franchise if granted to an association of individuals constituting a city, and is not protected by the constitution, or anything else, but may be taken without compensation at the pleasure of the legislature.<sup>2</sup>

6. The charter of a private corporation is held to be a contract within the constitution, but the charter of a public corporation is not. Municipal corporations are creatures of the legislature. They have only such powers as may be given to them by the legislature, which may, at its pleasure, alter, abridge or annul their powers and privileges, divide them, or consolidate two or more of them into one without their assent, attach a condition to their continued existence, or abolish them completely.<sup>3</sup> Imagine Congress passing an act to annex Rhode Island to Connecticut, or divide New York state, or declare that Illinois shall no longer be a state! Yet such an act enforced without the assent of the states affected would be an apt parallel to the arbitrary powers possessed and exercised by many of our legislatures in respect to cities.

These illustrations of municipal dependence seem sufficient to justify the conclusion that our cities are in bondage—sub-

(1) 44 Oh. St. 348; 7 Houst. (Del.) 44; some courts hold otherwise—see below.

(2) *East Hartford v. Hartford Bridge Co.*, 10 How. (U. S.) 511. Legislative act taking away the Hartford ferry justified on the broad ground that the grant of a franchise to a municipality is not a contract. See also 77 Va. 214, and compare 10 Barb. (N. Y.) 223.

(3) See 102 U. S. 472, 511; 93 U. S. 266; 4 Wheat. 518; 74 N. Y. 161, 166; and Judge Dillon's famous legal text book on Municipal Corporations, §§54, 64, 85, 89,—the highest authority on the subject.

A municipality is not only a creature of enumerated powers, but those powers are for the most part strictly construed. It is held that a municipal corporation can exercise no powers except those granted to it in express words, or necessarily or fairly implied in or incident to the powers expressed, or indispensable to the declared objects and purposes of the corporation, and "any reasonable doubt concerning the existence of the power is resolved by the courts against the municipal corporation, and the power is denied." *Von Schmidt v. Widber*, 105 Cal. 151, 157.

ject to external control in regard to matters which they ought to have a right to decide for themselves. A state legislature has no more right to impose its judgment upon a city in respect to the local business affairs of that city than the Federal Government has to impose its judgment upon a particular state in regard to the local affairs of that state. There is no more sense or justice in requiring Baltimore to consult all the cities and towns of the state as to what she shall do with her street railways than there would be in requiring Mrs. Deland to consult all the women in Boston and get permission before she puts new paper on her hallways, or makes any other change in her housekeeping.

#### THE REASONS FOR ALL THIS.

The reason sometimes given for the legislative power of strangling a municipality is that it was created by the legislature, and as the breath of life was breathed into it by the state authorities they have the right to withdraw the said breath at their pleasure. On similar grounds a parent would have a right to murder his child, and we should go back to the Roman plan of placing the power of life and death in the head of the family. Moreover, private corporations, as well as public, are created by the legislature and if creation confers a right of limitless modification even to dissolution in the one case, why not in the other? Finally, cities and towns are *not* created by the legislature. They may exist and frequently have existed without any legislature, and before there was any legislature. Their *existence* gives them the right of local self government. People living together in the same locality have a right to associate themselves for the accomplishment of common purposes, and to control their local affairs without dictation from distant cities and without permission from any legislature. The legislature may use cities and towns to accomplish state purposes, and in that relation may properly mold their governments and functions; but it has no more right to deprive them of freedom and self control in local matters than congress has to deprive a state of its freedom and self control in internal concerns.

The real reason for the present state of municipal law appears to be a failure of the law so far to embody in its philosophy, with sufficient fullness and precision, the fundamental distinction between the functions of cities and towns as state agencies for enforcing state laws, and their functions as local business concerns. When the principles of the Common Law were crystalizing, the functions of municipalities were almost entirely confined to the first class, and the doctrine naturally grew up that municipalities were merely creatures of the state, doing a part of the state's work, and subject entirely to the state's orders—a doctrine fairly reasonable as long as municipal functions were confined to keeping order, administering justice, attending to education and other state interests, but wholly inappropriate in reference to the ownership and management of water works, gas works, electric light works, street railway systems, lodging houses, wharves, ferries, printing establishments, telephone exchanges, baths, and other local business enterprises that have crept into the municipal field. The precedent-loving law has clung to the rule of former times, bending a little in the strong hands of two or three liberal courts, but with no due regard as a rule for the modification required by the changes of modern life.

We may set it down as a reasonably certain conclusion, I think, that the sweeping subjection of cities to legislative authority that characterizes our law appears to arise from the failure to distinguish between the two spheres of municipal activity. So far as the municipality is an agent of the state to carry out state policy in respect to state interests, such as education, order, administration of justice, protection from disease, etc., large control by the legislature is right; but so far as the municipality is a local co-operative business concern, the legislature should have no more power over it than it has over any other individuals or corporations engaged in similar business.

#### LIMITATIONS ON THE LEGISLATURE.

In spite of the law's rigidity, and the powerful trend in the past toward state absolutism in municipal affairs, some notches have been cut in this legislative omnipotence.

1. Taxation must be for a public purpose, and one that pertains to the district taxed.

2. The legislature cannot deprive a city of the *use* of its private property, such as water works, gas plants, etc. Even if a city or town is abolished, such property rights are not destroyed but go to the state in trust for the inhabitants of the municipal area. The management of the property may be taken away, but not the use of it.

3. A few courts hold that the legislature cannot take away the *management* of "private" property from the municipality, there being an *inherent* right to local management and control of local business, and local selection of the officers who are to administer such business.

#### *Inherent Right of Local Self-government.*

In *People v. Hurlbut*, 24 Mich. 44 (1871). Chief Justice Campbell and Justices Cooley and Christiancy held that the legislature could not appoint a board of public works to control the public buildings, pavements, sewers, water works, engine houses, etc., in the city of Detroit, altho no express provision of the constitution negatived the act. The court held that there is "a clear distinction between "what concerns the state and that which does not concern more "than one locality."

A municipal government has two sets of functions. It is a state agency to attend to state affairs in its locality, and it is a municipal agency to attend to business of a local nature, such as water works, fire service, etc. In its sphere of state agency, the legislature may control it except where express constitutional provisions may intervene. But the people of a city or town have a right to the management of their local concerns, and the selection of their local officers who are to control such concerns, and this right cannot be taken from them by the legislature, for it rests upon the principle of self-government, which is inherent in free institutions, and underlies the constitution as the purpose for which the constitution was established.

Chief Justice Campbell and Justices Cooley and Christiancy gave the matter great consideration and rendered separate opinions all based upon the principle that local self-government of local affairs is an essential part of our system. "The history of the country "and the nature of our institutions" show "the vital importance "which in all the states has so long been attached to local municipal governments by the people of such localities, and their rights "of self-government."

Chief Justice Campbell distinguishes *People v. Mahaney*, 13 Mich. 492, where the validity of an act establishing state control of city

police is sustained, saying the question was "whether the police board is a state or municipal agency," and added, "I think it is clearly an agency of the state government . . . . There is a clear distinction in principle between what concerns the state and that which does not concern more than one locality. . . . There is no dispute concerning the character of the public works act. Its purposes are directly and evidently local and municipal." He decided that the municipality could not be deprived of the right to choose the men who should manage its public works. "Our constitution," he said, "cannot be understood or carried out at all, except on the theory of local self-government. . . . The confusion existing on this subject has arisen from the custom prevalent under all free governments of localizing all matters of public management as far as possible, and of making use of local corporate agencies whenever it can be done profitably, not only in local government, but also for purposes of state." (pp. 81, 84, 89.)

Judge Cooley made an extensive review of the pertinent historic facts and general principles, and concluded against the "legislative power to appoint for municipalities the officers who are to manage the property, interests and rights in which their own people are alone concerned. The municipality as an agent of government, is one thing; the corporation as an owner of property is, in some particulars, to be regarded in a very different light. . . In the case before us, the offices in question involve the custody, care, management and control of the pavements, sewers, water works, and public buildings of the city, and the duties are purely local. The state at large may have an interest in an intelligent, honest, upright, and prompt discharge of them, but this is on commercial and neighborhood grounds, rather than political." (pp. 103, 104, 105.)

In *Board of Park Commissioners v. Detroit*, 28 Mich. 228 (1873), where the legislature appointed state officers to buy land and improve it for a park for, and at the expense of, the city of Detroit, Judge Cooley said: "We affirm that the city of Detroit has the right to decide for itself upon the purchase of a public park. . . . It is as easy to justify, on principle, a law which permits the rest of the community to dictate to an individual what he shall eat, and what he shall drink, and what he shall wear, as to show any constitutional basis for one under which the people of other parts of the state dictate to the city of Detroit what fountains shall be erected at its expense for the use of its citizens, or at what cost it shall purchase, and how it shall improve and embellish, a park or boulevard for the recreation and enjoyment of its citizens." (Pp. 241, 242.)

A passage from the opinion of the same judge in the former case, 24 Mich. at 97, is interesting in connection with the last quotation. "The doctrine," says the learned judge, "that within any general grant of legislative power by the constitution there can be found



"authority thus to take from the people the management of their local concerns, and the choice, directly or indirectly, of their local officers, if practically asserted, would be somewhat startling to our people, and would be likely to lead hereafter to a more careful scrutiny of the charters of government framed by them lest some-time, by an inadvertent use of words, they might be found to have conferred upon some agency of their own, the legal authority to take away their liberties altogether."

The Michigan constitution says, Art. XV, §14, that "judicial officers of cities and villages shall be elected, and all other officers shall be elected or appointed, at such time and in such manner, as the legislature may direct," but the Michigan judges hold that in the light of history and fundamental principle, the election or appointment of municipal officers proper must be by local authority in such time and manner as the legislature may direct.

In *State v. Denny*, 118 Ind. 382 (1888), an act creating a board of public works to be appointed by the legislature, and to have control over streets, alleys, sewers, water works and lights, was held invalid as infringing the right of local self-government inherent in municipal corporations under our system of free institutions. The right of local self-government ante-dated the constitution, and was not surrendered by it. Judge Coffey, citing Cooley on Constitutional Limitations, 5th ed., page 208, says:

"It does not follow that in every case the courts, before they can set aside a law as invalid, must be able to find in the constitution some specific inhibition which has been disregarded. . . . If the authority to do an act has not been granted by the sovereign to its representatives, it cannot be necessary to prohibit its being done" (pp. 394-395). The Court continues: "The constitution must be considered in the light of the local and state governments existing at the time of its adoption. . . . The principles of local self-government constitute a prominent feature in both the federal and state governments. . . . It existed before the creation of any of our constitutions, national or state, and all of them must be deemed to have been formed in reference to it, whether expressly recognized in them or not. . . . The object of granting to the people of a city municipal powers is to give them additional rights and powers to better enable them to govern themselves, and not to take away any rights they possessed before such grant was made. It may be true that as to such matters as the state has a peculiar interest in, differing from that relating to other communities, it may, by proper legislative action, take control of such interests; but, as to such matters as are purely local, and concern only the people of that community, they have the right to control them subject only to the general laws of the state, which affect all the people of the state alike. The construction of sewers in a city, the supply of gas, water, fire protection, and many other matters that might be mentioned, are matters in which the local community alone are concerned, and in which the

"state has no special interest more than it has in the health and prosperity of the people generally, and they are matters over which the people affected thereby have the exclusive control, and "it cannot, in our opinion, be taken away from them by the legislature."

In *Evansville v. State*, 118 Ind. 426 (1888), it was held that an act placing the police and fire departments of certain cities, and the property connected therewith, under the exclusive control of State commissioners was void as a denial of the right of local self-government. The court says that securing an efficient police department is a State purpose, but the remainder of the act affected purely local concerns (p. 437).

This *Michigan doctrine* of the inherent right of local selection of officers and management of property guarantees self-government within the sphere of local business permitted by the charter, but the charter itself is subject to limitation or repeal at the will of the legislature, and there is at best no power of *initiating* a business or policy beyond the foreordained enumerations and permissions of the charter. Moreover, the courts that take this position are few. The great majority hold, with Ohio and Delaware, that the legislature may take city property out of the hands of the city, and give its control to state officials.<sup>1</sup>

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(1) The reasoning by which this course is sustained is well expressed in 148 Mass. 375, at 383-6. "It is suggested, tho not much insisted on, that the statute of 1885, c. 323, is unconstitutional, because it takes from the city the power of self-government in matters of internal policy. We find no provision in the constitution with which it conflicts, and we cannot declare an act of the legislature invalid because it abridges the exercise of the privilege of local self-government in a particular in regard to which such privilege is not guaranteed by any provision of the constitution."

The court then referred to constitutional provisions to make "wholesome regulations," etc., and to "erect municipalities" and "grant powers," etc. The constitution did not say the legislature could take away powers once granted, but this was held to be the case by the court which continued as follows:

"Under these provisions," as is said by C. J. Chapman: "There can be no doubt that the power to create, change and destroy municipal corporations is in the legislature. *This power has been so long and so frequently exercised* upon counties, towns and school districts, in dividing them, altering their boundary lines, increasing and diminishing their powers, and in abolishing some of them, that no authorities need be cited on this point. The constitution does not establish these corporations, but vests in the legislature a general jurisdiction over the subject by its grant of power to make wholesome laws, as it shall judge to be for the general good and welfare of the commonwealth.' It 'may amend these charters, enlarge or diminish their powers, extend or limit their boundaries, consolidate two or more into one, and abolish them altogether, at its own discretion.'"

"We have no doubt that the legislature has the right in its discretion to "change the powers and duties created by itself, and to vest such powers and "duties in officers appointed by the governor, \* \* \* instead of leaving "such officers to be elected by the people, or appointed by the municipal "authorities."

The law under consideration in this case established a state police for Boston, and so was not within the limits of the Michigan and Indiana decisions, but the reason covered the whole field, and is often referred to as authority against the Michigan doctrine.

4. In some states, constitutional provisions have been adopted securing more or less municipal freedom as a right; and, as a matter of fact our legislatures accord municipalities a considerable degree of self-control, tho only as a courtesy, subject to recall at the pleasure of the legislature except where the Michigan Doctrine or the constitutional provisions just mentioned interfere with State absolutism. (See diagrams below, Tables I and II.)

#### THE GENERAL SITUATION.

Summing up the situation it appears to be as follows:

1. Cities have no independent initiative of their own. They belong to the dependent and defective classes.

2. They have as a rule no recognized right to choose their own officers.

3. They have as a rule no recognized right to control and manage their own property.

4. They have no recognized right to continued existence—no recognized right to life, liberty, or the pursuit of happiness.

5. Neither a franchise grant, nor the charter as a whole, is regarded as a contract, or within the protection of the Federal Constitution.

6. Cities cannot be taxed except for a public purpose, and one that pertains to the district taxed.

7. The people in the municipal area have a right to the use of the business property of the municipality, and perhaps of its public property also.

8. Some courts recognize an inherent right in municipalities to control their business property and manage their local affairs, and elect their own officers to exercise such control and management.

9. In fact, considerable local self-control exists by legislative permission as a revocable courtesy.

10. In some states, the prevailing rules of law as to municipal subjection have been altered by constitutional provisions, and there is a strong movement of thought in favor of such modification. (See diagrams and explanation.)

## CONSEQUENCES OF MUNICIPAL DEPENDENCE.

Some of the consequences of the present condition of municipal law are:—

First. A chaotic mass of legislation and decisions, mighty in bulk, complexity and conflict of opinion, but weak in the definite simplicity, uniform interpretation, and steady harmony with fundamental principles that characterize the perfect law.

Second. An eternal running to the legislature for special legislation. Turning to a pile of notes on special laws, the first sheets I pick up contain a list of twenty acts passed by the Virginia legislature in one year to authorize the building of wharves by persons named in the acts. Here are a few specimens. They are all substantially alike.

Major W. Pilchard to erect a wharf at Greenbackville.

C. W. Warner allowed to erect a wharf.

Tomlin Braxton to erect a wharf in King William.

R. H. Atkerson to erect a wharf on Chuckatuck Creek, etc.

Taking another random handful of papers, I find a mass of local laws enacted in Mass. in 1896, '97 and '98. Look in the index of any Mass. blue book under the titles "Cities" and "Towns" and you will find materials enough for a lengthy sermon on special legislation. In 1896, there were 49 special acts relating to street railways in 5 cities and 44 towns, and 25 acts about water, 8 relating to cities and 17 to towns. Those are only two items. In 1897, there were 130 entries under Cities, only 7 of them general laws. In 1898 there were 255 entries under "Cities" and "Towns" and only 18 of them referred to general laws. A considerable number of the special acts relate to municipal water works, and another large group consists of acts permitting some railway to lay its tracks in some town or city. Here are a few examples of what Mass. can do in the way of special legislation:—

Barre, the Barre St. Ry. Co. may lay its tracks and operate its railway in,

Belchertown may accept a certain bequest.

Berkley, water supply.

Blandford, the Hudson Rv. & B. Rd. Co. may construct its railroad thru. (There are many of these Rd. acts.)

North Adams hospital may establish a school for training nurses.  
Beverly, draw in Essex bridge may be relocated.

Boston, Aberdeen street may be laid out and occupied as a public highway.

Boston may accept legacy of John L. Randidge.

Boston may grant a pension to John Rogers.

Boston may pay a sum of money to widow of C. L. —

Boston may relocate Chilmark street.

Boston may pay a sum of money to widow of John — (several such acts).

Boston, sale of old public library building.

Boston, extension of Cove street.

Brockton, name of Franklin Meth. Epis. Chapel changed to the Franklin Meth. Epis. Church.

Brockton, Taunton and Brockton St. Ry. may operate cars in,  
Edgartown, taking of eels in oyster pond in,  
water supply for.

New Bedford, Board of Public Works of, may elect a clerk.

Northfield, a bridge to be constructed in,

Somerville, appointment of certain members of fire department in,

Springfield, salary of justice of police court in,

Wayland, bridge in may be removed.

Orange, the Orange & E. Street Railway may construct its railway in,

These are from '97. A few from the long lists of '98 will show that the quality is about the same from year to year.

Boston may pay a sum of money to — (many such acts).

Boston, to change the name of Penitent Female Refuge,

Boston, relative to Bennington street in,

Boston, widening of Rutherford avenue.

Boston, relative to alleys in,

Boston may finish the construction of its public parks.

Bourne, the Plymouth & Sandwich St. Ry. Co. may construct and operate its road in (many such acts),

Chicopee, filling of vacancies in board of aldermen.

Falmouth, water supply for (a number of such laws),

Salem, appointment of assistant assessors in,

Revere, election of selectmen in,

Taunton, custody of shade trees in,

West Newbury may appropriate money for constructing a wharf,

Windsor, may construct a telephone line to Dalton.

No wonder Governor Russell advocated an enlargement of the powers of municipalities. In his address to the Mass. legislature, Jan. 8, 1891, pp. 24 to 26, he says:—



"Much special legislation is enacted in behalf of cities and towns and is made necessary by their limited powers. Twenty-three cities and forty-one towns were the subjects of special acts at the last legislature. In my opinion, greater powers can be given to cities and towns with safety and advantage, not only as a relief to the legislature, but as a just and proper extension of local self-government." Speaking of the terms and conditions on which street franchises should be granted, and of an act that passed the House requiring the sale at auction of such franchises, he says: "In my judgment, each community is best fitted, has the right and ought to have the power, to determine this question for itself;" and he recommended the passage of a law allowing each municipality to fix the terms on which such grants should be made.

In his address of January 7, 1892, page 42, he again recommends the "extension of the powers of cities and towns and of local self-government, especially in matters of taxation, control and sale of franchises, and extending the limits of municipal work and of municipal ownership."

And finally, in his address to the legislature, January 5, 1893, page 12, *et seq.*, under the caption "Right of Local Self-Government in Town and City," the governor said: "The right of self-government is an axiom of our political system. Wherever this right can be exercised directly by the people themselves, such exercise should be carefully conserved. . . . Due regard for the right of local self-government requires not only non-interference by the State in the purely local affairs of cities and towns, but also the grant to them of greater powers in order that there may be the most successful treatment and control of the ever increasing problems of local concern. A reference to the acts of last year shows that nearly one-third of its four hundred and forty acts were special laws passed on the application of twenty-five cities and eighty-five towns [in respect to little local matters], and there were also eighty-seven special acts relating to other corporations," and he repeated his recommendations of former years for the sake of progress, for the relief of the legislature, and as a matter of justice and right.

The Fassett Committee appointed in 1890 by the New York Senate to investigate municipal government in that state found that in 6 years, 1884 to 1889 inclusive, the New York legislature passed 1234 acts relating to the 30 cities of the state—390 of the acts affecting the city of New York. In 1886, 280 out of 681 statutes were local municipal laws. (See Sen. Rep. Fassett Com. 1891, Vol. V, p. 459.) For examples of New York special legislation, see Appendix II, S.

In Wisconsin in 1895 the General Laws occupied a volume of 812 pages and "City Charters and their Amendments" filled a second volume of 1360 pages. As specimens of some

of the local measures that absorb the attention of Wisconsin legislators, we may name an act providing that bath houses may be maintained at Hicks Lake, and an act to amend the charter of Milwaukee in respect to sprinkling the streets.

In the Minnesota statutes of the last session (1897) I find:

Cities are authorized to compromise and settle claims.  
 Empowered to repair market houses and city property.  
 Authorized to issue bonds for water works, hospitals, etc.  
 Time for payment of local improvement assessments extended.  
 Empowered to prevent fights, disorderly conduct, etc.  
 Empowered to change abandoned cemeteries into parks.  
 Empowered to take bequests in trust for public libraries.  
 Cities over 50,000 authorized to buy any water plant or combined water and light plant in operation in such city.  
 Fire limits may be prescribed by Councils, etc., etc.

Think of it! A city has to have legislative permission to compromise and settle a claim, to repair its own property, to change its own cemetery into a park, buy a water or light plant, or take a bequest for a public library! No individual of age and apparent discretion, nor any association of individuals whatever, except a municipality, would think of asking permission to repair its own property—but a city or town—well, it would ask permission to sneeze if it needed to perform that operation; it can't even stop a fight legally till the legislature says it may.

A large part of our state legislation consists of acts that deal with insignificant local matters that should be left under general laws, to the discretion of municipal and county authorities. In Massachusetts more than a hundred towns and cities apply in a single year for special legislation in their behalf to the great overburdening of committees, the dissipation of legislative energy, the decision of numberless local questions by men who know little or nothing about the case, the prevention of due consideration of important State affairs, the general distraction of attention and encouragement of loose methods of passing laws, or allowing them to pass without finding out whether they ought to pass, and the serious congestion of the statute book, entailing on the public treasury the needless cost of printing hundreds of laws for the State every year, when

an entry on the books of a city, town, or county, would do just as well, or better.

The New Jersey General Statutes, 1895, contain seven special acts as to cities besides numberless fragments affecting them more or less. There is an act concerning cities of the first class, or those over 100,000 population; another as to cities of the second class between 12,000 and 100,000, another as to third class cities, all those not in the first or second class, except Sea-side resorts; another as to Sea-side resorts; another relating to cities between 6,000 and 10,000; another about cities below 5,000; and another as to cities generally. There is an enormous amount of repetition—the councils have powers that are similar to a large extent in the different groups, but there is difference enough so that it is almost impossible to tell just what the authority of a particular city is under any given circumstances—quite impossible without employing a lawyer to investigate the statutes and decisions. The General Statutes are composed of three big volumes containing 4,098 enormous pages—over 1,200 words to a page, and nearly 5,000,000 words altogether, and every legislative session adds another book of laws; 30 of the giant pages are given to a dissertation on oysters and clams, and 400 pages, or nearly 50,000 words are devoted to cities and towns, besides the quantities of scraps, to exhaust which one must search the imperfectly indexed volumes under 40 or 50 heads.

This egregious violation of the laws of liberty and decentralization, burdening the legislature with a mass of local concerns about which they know little, and care little, taking their time and attention from the broad interests they ought to deal with, diminishing their respect for and interest in law making, subjecting local business to irresponsible “foreign” control, and depriving municipalities of the benefits of self-government, constitutes one of the great evils of our time.

Third. Another result of our present system is a great lack of elasticity and spontaneity in municipal action.

Fourth. The absence of municipal independence cripples local patriotism, creates a disastrous apathy in many honest citizens, forfeits the educational development that comes of

earnest attention to public questions. The people do not manifest the interest in local business, especially in the larger cities, which they would manifest if the right of decision and initiative rested with them. As the Fassett Committee says: "Our cities have no real local autonomy, local self-government is a misnomer, and consequently so little interest is felt in matters of local business that in almost every city in the state it has fallen into the hands of professional politicians."\* As Prof. Goodnow says, in substance: "The indifference which has been too evident in many of our large municipalities, has undoubtedly been due in part to the feeling of the people that their efforts were of little avail. Citizens have little motive or encouragement to act in New York when they know that their efforts can be at any time, and as a matter of fact have frequently been, frustrated at Albany."\*\*

Fifth. Municipal dependence helps the politicians and ringsters not merely thru the apathy it causes, but also by shifting the scene of action to a field where corruption wins more easily in respect to city affairs than it usually would in the city itself. It is easier to persuade Mr. B. to favor a bill that will take money out of A's pocket than it is to persuade A to favor that bill. Mr. N., representative from Cleveland draws up a bill to extend the franchise of a street railway company for which he is counsel. The representative from Columbus, S, has a bill to establish a state commission to control the city's water supply on the understanding that he, S, will be appointed commissioner. Mr. Z, of Cincinnati, is engaged in a law suit which will become more hopeful for him if a law is enacted changing the remedy in that class of cases, and so he introduces a bill for that purpose. In one case a legislator who kissed a woman on the street without permission, and was sued for damages, introduced a bill to the effect that the damages for kissing a woman on the street should not exceed \$250—the woman was pretty and he feared the jury might give her heavy damages. Mr. X, of Toledo, has an equally public spirited measure on hand and so have other repre-

\* (Senate Rep. Fassett Com., 1891, Vol. V., p. 13.)

\*\* Pollt. Sc. Quar., March, '95.

sentatives. N. says to S. Z. X. & Co.: "You vote for my bill, and I'll vote for yours." "All right," say S. Z. X. & Co. Some members vote as N. wishes because they are friends of his, and have no interest in the Cleveland matter, and don't know anything about it, and don't care. Other members are too busy to pay any attention to the bill, tho it is part of the business they are paid to attend to. So altogether, by negligence, indulgence, log-rolling, and pressure of influence, and of money if need be, many municipal and other measures are enacted, which have no public purpose for a motive, but exist for private advantage and profit. In this way, scheming men are able, thro legislative influence, to secure the creation of lucrative offices to be sustained at city expense, to line their pockets with the people's money under color of municipal contracts and public works which a really self-governing city would never have authorized, and to obtain valuable franchises in relation to water, gas, electricity, transit, etc., without remuneration to the city whose streets are used, and often without the consent of the people or their municipal agents. And it happens not infrequently that a state senator or representative from a city becomes, thro his power in the legislature, the virtual ruler of that city, subject of course to the big politicians and bosses, like Croker, Platt, Quay, Hanna, etc., who can control not only cities, but anything else the legislature has a right to act upon, except, perhaps, a great railroad or a giant monopoly. These industrial bosses and political bosses understand each other so well that we have not had a chance to see which would win in a fight to the finish.

Sixth. The path of progress and reform is obstructed or blocked by the inertia consequent on the necessity of fighting every upward measure thro the legislature against the force of antagonistic private interests, the indifference of overcrowded and more or less alien legislators, and the weighty lack of local patriotism and public spirit due to municipal dependence.

Sometimes the private interests opposed to municipal progress form a state wide union to resist with their whole power any measure looking toward reform in any city. When a



bill was brought before the New York legislature to authorize a municipal subway in Syracuse, a prominent lobbyist told the mayor of Syracuse that he was wasting his time working for the bill; it might pass the legislature but it would not become law; it would be killed either in the legislature or afterward, for all the electric companies in the state had put funds in a pool in the hands of a lobbyist he knew (and named) to be used against any bill tending toward public ownership. In this case, the bill passed the legislature, but died in the Governor's hands.

The lack of home rule hinders development in other ways than those already mentioned. For example, Governor Pin-gree tells me that if Detroit had possessed home rule a few years ago, it would have been possible to accept the offer made by a responsible syndicate to run all the street railways of the city as one system on a uniform  $2\frac{1}{2}$  cent fare with free transfers, and pay the interest on the sum expended by the city in obtaining possession of the roads under the right of eminent domain. It was a splendid offer, but Detroit was still in her nonage, she could not act for herself, and the legislature was not in session, and, if it had been, a long and costly fight with the companies would have been necessary, with defeat for the city perhaps at the end. The Governor knows whereof he speaks, for he spent \$75,000 of his own money fighting corporations while he was Mayor of Detroit.

#### THE REMEDY.

The cure for the evils of municipal dependence is municipal independence. A certain amount of dependence is good—essential to state and national organization, and the co-ordination of effort for wide purposes; but over-dependence is an evil, and the excess should give place to independence. Instead of having to get permission for every move in local concerns, municipalities should be free under general regulations, to act in any way they please so long as they do not *conflict* with superior law. This we may call the Manhood Principle, as distinguished from the Infancy Principle, whereby the child, or municipality, acts by permission. This

rule would give municipalities a strong *initiative*, a power of self-movement, after the manner of living things, instead of compelling them to remain motionless, like a lifeless machine, till the legislature turns on the steam. The Manhood Principle prevails in some countries of Europe,<sup>1</sup> is imperfectly ex-

(<sup>1</sup>) In England, the same law holds respecting municipalities as in this country; a city can do nothing without permission, but Parliament has generally been quite liberal in granting permissions, and much good has been done, especially by such sweeping enactments as the Tramways Act of 1870, under which municipalities may build their own tramways if they so desire, or if the city chooses to allow a private company to build the lines, then at the end of 21 years, and of each subsequent franchise period of 7 years, the city has 2 years in which it may buy the railways at the actual value of the physical plant. About one-quarter of the tramways of England and Scotland are owned by municipalities, and additions to the list are being constantly made as the franchise periods expire. Special permission, however, must be obtained if the city wishes to *operate* its tramways. This has been secured by a number of cities without serious difficulty, but permissions to buy up and rebuild the slum districts, and to own and operate a municipal telephone system are not so easily obtained, as Glasgow has reason to know the difficulty in the latter case being due to the reluctance of the postal authorities to grant telephone licenses that will result in a duplication of exchanges in the same locality, preferring to wait until the whole system can become public at reasonable cost without incurring the complexities and wastes of competition. Notwithstanding the absence of municipal sovereignty *de jure*, a number of English cities have made considerable progress toward real self-government in local concerns. Glasgow, for example, the second city in Great Britain, has control of her streets, owns and operates her street railways, gas and electric works for public lighting and sale to consumers, water works, hydraulic power works to supply motive power for elevators, etc., hospitals, sanitary wash-houses, sewers, garbage and street cleaning plants, municipal farm, model tenements, and lodging houses, public baths and laundries, public markets, cattle yards and slaughter houses, parks, play grounds, fire department and police (partly paid for by a government grant, the maintenance of order being in theory and origin a general rather than a local function), public ferries, steamships, docks, shipyards, in fact the whole harbor and its various services.

The development of municipal control over local business affairs in Glasgow and Birmingham and other English cities in the last few decades has had much to do with their transformation from among the most corruptly governed to the front rank among the best governed cities of the world.

In France the dual character of the municipality is clearly recognized, the mayor being distinctly understood to act in the double capacity of agent for the general government, and agent for the commune. The law expressly ascribes to him this two-fold character. As agent for the nation, he must attend to military matters, national taxes, registration of births, deaths and marriages, and the general execution of all national laws in the commune. As agent of the municipality, he is charged with the care and management of the municipal property, the direction of public works of a local character, leasing places in the markets, attending to various specified business transactions in behalf of the commune, and in general with the carrying out of the decisions of the municipal council.

Both in France and in Germany the *rule of law* is that a municipality is free to do any act not contrary to the laws above it—the exact reverse of our rule. Here cities can do nothing without permission; there cities can do anything unless forbidden.

In France, tho the principle is good, the limitations of the superior law are great; but in Germany, municipal home rule really does exist to a very substantial degree, and with marked advantages in awakening local patriotism and securing men of high character and ability to manage city affairs. In the 18th Century, the Prussian policy was to "sink the independence and individuality of the municipalities in the absolutism of the state, going even so far as to treat municipal property as belonging to the state \* \* \* \* But all this was changed by the legislation of 1808. Municipalities were recognized as organic entities, with their own properties and functions, and with the right of entire self-government within the sphere of their strictly local and neighborhood concerns. There are in the German conception of city government no limits whatever to the municipal functions. It is the business of the municipality to promote in every feasible way its own welfare and the welfare of its citizens." The Germans regard municipal ownership and management of public utilities simply as part of a thrifty and progressive municipal housekeeping. Everything is involved in the conception of the municipal household and the full and unlimited responsibility of the city for the welfare of its citizens. "The German city holds itself responsible for the education of all, for the provision of amusement and the

pressed in the charters of some of our cities, and partly incorporated in the constitutions of California, Washington, and some other states, and in the Missouri statutory powers of first class cities, etc. While, however, this rule confers on the municipal body the power of self-movement, and, when joined with constitutional safeguards against special legislation, and provisions securing the referendum, is a most valuable contribution to municipal liberty, yet it does not prevent legislative *obstruction* of municipal movement. The legislature can still, by positive action, completely control the municipality. To prevent this in matters that should be left to local discretion, a limited sphere of local activity should be clearly marked off and deeded to local self-government, to belong to municipalities absolutely, to the positive *exclusion* of legislative interference. The state and the nation each has such a sphere; why not the city? The idea of assigning such a local area of assured self-government for municipalities is an

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means of recreation, for the adaptation of the training of the young to the necessities of gaining a livelihood, for the health of families, for the moral interests of all, for the civilizing of the people, for the promotion of individual thrift, for protection from various misfortunes, for the development of advantages and opportunities in order to promote the industrial and commercial well being, and incidentally for the supply of common services and the introduction of conveniences." Such are some of Dr. Shaw's remarks in his *Municipal Government in Europe*, pp. 305-329, and he goes on to speak in detail of the splendid efficiency of German city governments in the prosecution of public works and enterprises, and the care that is taken with gas, electric light and street railway franchises, etc., it being a common practice when a franchise is leased to a private company to provide in the contract: (1) for adequate payment to the city for the privileges granted, (2) for municipal supervision of accounts and control of the service, (3) for reasonable rates, (4) for city purchase at the fair value of the plant estimated according to methods clearly stated in the contract, and (5) for cessation of the entire system to the city without payment at the end of the franchise term. After speaking of these matters Dr. Shaw says: "In studying these German contracts one is always impressed with a sense of the first class legal, financial, and technical ability that the public is able to command; while American contracts always impress one with the unlimited astuteness and ability of the gentlemen representing the private corporations." *Ibid.*, p. 350.

The conception of a city as a self-governing household fully responsible for the welfare of the family, and fully able to provide for that welfare, is very different from the conception of a city as a creature of the legislature, intended simply to carry out the will of the legislature, having no powers except such as the legislature may see fit to grant, and no ability to do anything without express permission; and to this difference is largely due the superiority of German municipalities. A similar difference is one of the important factors in Glasgow's wonderful development and magnificent success. The conception of the city as an independent self-governing group, responsible for the welfare of its citizens and with full right and ability to provide for it, has not yet embodied itself in British law, but the conception has taken possession of the people of a considerable number of English municipalities, and has transformed them, governmentally, industrially, socially, and the new sentiment will soon be too strong for any Parliament to break. Home rule for cities may be practically assured in this country also by the growth of a similar sentiment here, without constitutional changes; but the constitutional method seems the more rapid and definite and certain, and besides the discussion of the proposed amendment to our constitution is one of the most effective methods of educating ourselves to a full understanding of the subject, and of developing public opinion in favor of *Municipal Home Rule*.

application of what we may call the Democratic, or Popular, or Distributed Sovereignty Principle—the principle which gives to each group of men the government of those affairs which are specially and peculiarly their own, so that interest and power may go together, and no one be given control, in his own right, of matters that really belong to other people of full age and capacity. The Manhood Principle and the Distributed Sovereignty Principle together make up the Liberty Principle, or Home Rule and Self-government, *de facto* and *de jure*, established and certain. The distinction between state and local interests and the importance of municipal self-government have been frequently emphasized by legal authorities, and tho not yet defined and protected as they should be, they have had large influence in the framing of laws and governments. Dillon says: “The fundamental idea of a municipal corporation proper is to invest the people of a thickly populated place, or district, with the power of regulating their own local affairs, which are of a nature not common to the state at large, and which it is supposed they can regulate for themselves better than the legislature can regulate them by general enactments.” (§27.)

Interpreting a constitutional provision to the effect that municipal officers must be elected, or appointed, by the municipal authorities, the New York Court of Last Resort has said: “This right of self-government lies at the foundation of our institutions, and cannot be disturbed or interfered with even in respect to the smallest of the divisions into which the state is divided, without weakening the entire foundation; and hence it is a right not only to be carefully guarded by every department of the Government, but every infraction or invasion of it ought to be promptly met and condemned, especially by the courts, when such acts become the subject of judicial investigation.”<sup>1</sup>

In *People v. Ingersoll*, 58 N. Y. 1, The Court said that the relation of principal and agent does not exist between the State and a municipal corporation in respect to the exercise of corporate functions. “In political and governmental matters,

(<sup>1</sup>) *People v. Albertson*, 55 N. Y. 50, 57 (1873).



the municipalities are the representatives of the sovereignty of the State, and auxiliary to it; in other matters relating to property rights, pecuniary obligations, they have the attributes and distinctive legal rights of private corporations."

The powerful opinions of the supreme courts of Michigan and Indiana have already been cited. Almost as strong are the words of Chief Justice Dixon in *Milwaukee v. Milwaukee*, 12 Wis. 93, where it was held that the legislature could not divest a town of its title to land without the town's assent, and that an act annexing part of a town to a city did not divest the right of the town to land in the annexed area, to which it held the exclusive title. The Chief Justice distinguished between the municipality "as a civil institution or delegation of merely political power, and as an ideal being endowed with the capacity to acquire and hold property for corporate and other purposes," and said "In its political or governmental capacity, it is liable at any time to be changed, modified, or destroyed by the legislature; but, in its capacity of owner of property, designed for its own or the exclusive use and benefit of its inhabitants, its vested rights of property are no more the subject of legislative interference or control, without the consent of the corporators, than those of a merely private corporation or person."

In 127 Mo., 642 (1895), the Supreme Court of Missouri drew a strong line between state interests and functions and those which are "of merely local and municipal concern," and held that the legislature could not modify the freehold charters of the large cities in respect to local affairs.\* (See p. 424.)

#### CONSTITUTIONAL AMENDMENT.

The best institutional remedy would seem to be an amendment to each state constitution drawing the line between state and municipal interests as clearly as the federal constitution draws the line between state and national interests, providing for municipal sovereignty within the defined sphere of municipal business, and full freedom to do *any* act even tho it may

\* See further on this subject 51 Me. 362; 103 Mass. 499; 3 Ill. 531; 31 Pa. 183; 64 Pa. 180; 18 Cal. 590; 28 Mich. 228, 237; 24 Mich. 44; Compare 14 Oreg. 98.



be beyond the said sphere, provided it does not conflict with state or national law. This would establish the manhood rule, *plus* the absolute exclusion of the legislature from a specified reservation of local sovereignty. Or, the proper area could be deeded to state sovereignty by metes and bounds, as the area of federal sovereignty is marked out in the national constitution, leaving the remaining territory to be divided between individual and municipal sovereignty, under general principles and specific limitations, such as those applied to state sovereignty in the constitution of the United States. The better plan would seem to be to preserve a limited area for municipal sovereignty covering franchises and public enterprises of a local character, leaving all the rest of the existing state sovereignty in its present indefinite shape. This would seem best to begin with because it is less of a change from present conditions than the other plan, and because it is very important not to diminish too much the power of the state, which is the unifying, systematizing, co-ordinating power upon which we must depend for uniformity, and the equalization of burdens and benefits within the state area. It is quite as important not to deprive the state of the sovereignty necessary for the vigorous and effective performance of *its* duties, as it is not to deprive the city of the sovereignty necessary for the vigorous and effective performance of its duties. Each should have its proper share of sovereignty, a due balance being maintained in the same proportion that state interests bear to local municipal interests, just as a due balance is maintained between state and Federal sovereignties in proportion to national and state interests.

Under such a Home Rule Amendment as we have suggested, each city and town would make its own charter, subject to general statutes regarding state interests, and in harmony with the general principles and limitations above mentioned, just as each state now makes its own constitution subject to federal limitations.

#### HOME RULE CHARTERS AND THE REFERENDUM.

In order that such municipal charters, and the ordinances

made under them, may be in accord with the will of the people (male citizens of full age and of apparently or presumed sound discretion) it is necessary to have constitutional provisions guaranteeing the initiative and referendum in the making and amending of charters and ordinances. Otherwise, municipal independence might simply mean the substitution of mayor and councils, or mayor and aldermen for governor and legislature—a change that would generally be of *some* benefit, since mayor, aldermen and councilmen belong in the city they rule, understand something of its condition, are elected by the citizens of the city, and have interests through which they can be made to feel the local public sentiment to some extent, while the state legislature is almost wholly composed of men from other cities and towns, who have little or no acquaintance with the city under consideration, do not understand its needs, have no direct interest in it, were not elected by its citizens, and do not feel the slightest responsibility to them. Nevertheless, home rule, without the referendum, would still be government by the few, and the government of local business by a few who live in, understand, and are elected by the city, is likely, as a rule, to be superior to government of local business by a few who don't live in, nor understand, nor owe allegiance to the city; yet government by a few in any form is likely to be far less honest, just, progressive and beneficent than government by the whole body of American citizenship. As soon as a community has reached a stage of evolution whereon it is able to govern itself without a breakdown, it should exercise self-rule, for, through that exercise alone can come the full justice and development of a perfect democracy.

#### SEPARATION OF STATE AND MUNICIPAL AFFAIRS.

A municipal government is of a two-fold character; on the one hand it is an agency of the state to deal with state affairs, and on the other hand it is an agency of the municipality to deal with municipal affairs. In the first relation its functions are political and governmental; in the second, its functions are largely similar to those of the directors of a business corpor-

ation whose stockholders are the citizens of the city. Most of the difficulty and confusion in municipal law has come from the failure of constitutions, legislatures and courts of law to draw the line between these two sets of functions with proper strength and clearness.

The remedy lies in establishing a separation of state and municipal interests, similar in substance to the separation established by the federal constitution between state and national interests; the principle of decentralization, or the nearest possible approach to individual freedom, being always the guide; no liberty should be taken from the individual and given to any public body unless the transfer is clearly for the public good; no liberty within the public sphere should be taken from the municipality and placed in a wider grasp unless the wider public good requires it; and no liberty of the wider class should be taken from the state and given to federal power unless the national good demands it.

As a business corporation dealing with property for municipal revenue, service, or advantage, establishing water works, gas plants, telephone, electric light, and street car systems, markets, bridges, ferries, parks, etc., the city should have the fullest discretion subject only to broad limitations in respect to debt, unanimity, submission of measures to the people at the polls, etc., to prevent improper haste or ill-considered action, or possible tyranny of majorities, or injustice to private individuals or companies.

In this relation, the municipality is an organization for the common benefit of its citizens, and its government an agency whose duty it is to do all in its power for the prosperity and advantage of its principals. In respect to state interests, the municipality occupies a subordinate position; yet even here it should be free to act so long as it does not conflict with state arrangements. For example, the preservation of order and prevention of infection are state affairs; but they are also of prime importance to every municipality, and it should be free to establish a police or health department of its own where the state does not act, or in addition to the state agencies where it does not deem them sufficient; in other words, it should have

a sort of concurrent jurisdiction of state interests within its own domain, wherever the state does not claim exclusive jurisdiction.

It may not be an easy matter to arrive at a satisfactory division of state and municipal functions, but it can hardly be more difficult than the separation of state and national functions that was so satisfactorily accomplished by the makers of the federal constitution. Perhaps it might be well to try a similar plan in the present case; a convention of distinguished judges, statesmen, philosophers, etc., might at least be able to arrive at conclusions that would greatly facilitate a solution of the problem, and give the courts and constitution makers of the various states a standard that would help to mould the law of the country into at least a semblance of consistency and wisdom on this vital topic.

After the division of sovereignty is made, it would be well to have state and municipal elections on different days some months apart, so that the choice of men to manage the water-works and grade the streets might be more dependent on fitness and less upon the candidates' opinions about free silver, or the tariff, or their affiliations with any state or national organization or party.

#### STEPS TOWARD HOME RULE.

On the way toward the solid independence outlined in the last two sections a number of partial reforms may be of advantage. When it is not possible to get a whole loaf, half a loaf is better than none.

A. Broad *statutes* may be passed giving cities larger powers, especially in regard to the granting of franchises, and the right to own and operate local business enterprises. A considerable movement has taken place in this direction in the last few years, but it often requires a hard fight to pass such bills, and they are apt to be narrowed in scope, and gorged with wind and red tape, and assassinated with ingenious amendments and limitations. For example, it required a three years' struggle to get the Massachusetts law permitting cities and towns to establish municipal electric light works, and

even then its corporation enemies succeeded in crippling it with amendments which made it of little practical use.

In spite of all the imperfections of legislative enlargement of municipal powers, much good has been done in this way, and in conservative states it is probably the line of least resistance, and the greatest immediate hope. We have seen that Governor Russell of Massachusetts was a powerful and persistent advocate of this reform.

B. The second partial remedy lies in the possible adoption of the Michigan Doctrine by the courts of other states. This is probably not the most hopeful line of attack, but is worth the effort wherever occasion affords an opportunity to ask for a ruling in line with the principles laid down by Judge Cooley, as above stated.

C. Greater help is likely to be derived from the insertion of particular provisions in the state constitutions—such provisions, for example, as the following:

1. For the local election of municipal officers.

2. Against special legislation for laying out, or vacating streets, granting franchises to railways, turnpikes, ferries, etc., creating corporations, or granting corporate powers, creating municipal offices, or prescribing their duties, creating or amending municipal charters, or regulating municipal affairs, etc. It is a marked advance to take away from the legislature its power to pass special acts, and yet by means of grouping the cities in classes the legislature may be able to almost, or quite, attain the same individual or specific action under what is called "general legislation" (or legislation affecting all the cities of the same class) that it formerly attained by means of what was called "special legislation."

3. Provisions requiring local consent to street railway, gas, electric light or telephone franchises.

4. Or, still better, provisions transferring from the state to the municipality the power to grant such franchises, prescribe their conditions, and regulate their exercise.

5. Or, better yet, provisions establishing the right of cities and towns, not only to grant and regulate, but to own and operate water works, gas works, street railways, telephone sys-



tems, etc.,—best when the clause is a sweeping one that gives *all* municipalities the right to own and operate *any* public work on the people's vote to that effect.

6. It is most important to secure the initiative and referendum upon all municipal business, franchises, ordinances, etc. Nebraska took a step in this direction in a statute passed last year, but it is much better to secure the right by constitutional provision as was done in South Dakota this fall (1898). Some state constitutions have partial provisions requiring local consent to incorporate street railway, electric light, telephone and other franchise grants, but I know of no constitution, as yet, that secures the citizens of cities their full rights of veto and initiative.

7. A measure more comprehensive than any in this section, except the last, is to be found in a constitutional clause permitting municipalities to make their own charters. If the line between state and municipal affairs is also drawn by the constitution and legislative action *excluded* from the special municipal sphere, we have the final remedy already spoken of; but even without this, a simple clause allowing cities to make their own charters subject to state enactments has been found very useful. Mo. (1875), Cal. (1879), Wash. (1890), and Minn. (1896), have put provisions of this kind in their constitutions; and, by a statute of Louisiana, passed in 1896, any city or town in that state (*except New Orleans*) may adopt a charter of its own.<sup>1</sup>

#### HOME-MADE CHARTER LAWS.

The first constitutional provision was adopted by Missouri in 1875; cities over 100,000 population (*i. e.*, St. Louis and Kansas City) may make their own charters. The city may elect 13 freeholders to draw up a charter, which should be submitted to the voters of the city, and if ratified by four-fifths of the qualified electors voting should supersede the former charter, and all amendments thereto. Such charter may be amended by proposal of the law making authorities of the city published thirty days in three newspapers of largest circulation in the city, submitted to the voters sixty days or more after the

(<sup>1</sup>) Detroit may amend its charter by direct legislation. (See Appendix I.)

publication of the proposals, and accepted by at least  $\frac{3}{5}$  of the qualified voters of such city voting at a general or special election, and not otherwise (Missouri constitution, 1875, Art. IX. §16). No provision is made for legislative approval of the amendment. The section merely says after the words just given, "but such charter shall always be in harmony with, "and subject to, the constitution and laws of the state."

Section 20 of the same article gives the local authorities of St. Louis authority to appoint an election at which the citizens may choose a board of 13 freeholders to make a charter which, if adopted by a *majority* of the qualified electors voting, shall become the organic law of the city.

In the next year, Aug. 22, 1876, St. Louis adopted a freehold charter, and Kansas City followed, April 8, 1889.

In the other states named, the city's population does not have to reach the 100,000 home rule mark established in Missouri. In Washington, cities of 20,000 or more; in California, cities over 3500, and in Minnesota, all municipalities may make their own charters. The Louisiana statute adopts exactly the opposite view from that of Missouri, and *excludes* New Orleans from the privileges of home rule, apparently deeming large population a *disqualification*, or perhaps an extra enticement for the complete retention of legislative management. On petition of a majority of the property owners of any city or town (except New Orleans) to the mayor and council of such city or town, praying a referendum on a new charter (a copy of which must accompany the petition), a vote is to be taken, and if adopted it is to be the charter of the city or town. (Laws of La., 1896; No. 135, p. 190.)

By the amendment to article IV. of the constitution proposed by the legislature in 1895, and adopted by the people in 1896, any city or village in Minnesota may frame a charter for itself consistent with and subject to the laws of the state. The legislature is to provide for a board of 15 freeholders to be appointed by the district judges of the judicial district to which the municipality belongs. The charter proposed by such board must be submitted to the people and adopted by  $\frac{4}{7}$  of the qualified electors voting. The charter does not re-

quire legislative approval; but "before any city shall incorporate under this act, the legislature shall prescribe by law "the general limits within which such charter shall be "framed." The board of freeholders is permanent and amendments to the charter are to be proposed by it, and accepted by 3/5 of the electors voting.

In 1897, chap. 255, the legislature enacted that the judges should appoint freeholders "whenever requested by an ordinance passed by "the common council of any city, or village, or by petition signed "by at least 8 per cent. of the legal voters thereof," and that the charter might be so framed as to give the city control of street franchises, provided that no perpetual franchise or privilege shall ever be granted, nor shall any exclusive franchise or privilege be granted unless the grant shall be submitted to the people and approved by a majority of the electors voting, and even then the grant must not be for a longer period than ten years. (The recent act, chap. 351, 1899, confirms these franchise provisions, but makes the petition percentage 10 instead of 8, and drops the clause relating to request of the common council.)

The legislature of 1897 proposed a new amendment limiting the term of the freeholders to six years, and providing that charter amendments should be submitted to the people upon petition therefor, signed by 5 per cent. of the legal voters of the municipality. (Adopted by the people Nov., 1898.)

This gives the people a strong initiative—10 per cent. can compel the making and submitting of a charter, and 5 per cent. can secure the submission of an amendment to it.

In any city of Washington state having more than 20,000 people, the legislative authority of the city may order an election for the choice of 15 freeholders, who must convene within 10 days and prepare a charter "consistent with and subject to the constitution and laws of the state," which charter shall be published in two newspapers in the city for at least 30 days before submission; and if a majority of the voters of the city ratify the proposed charter, it supersedes the existing charter including amendments thereto, and all special laws inconsistent with the said new charter. It may be amended by proposal of the legislative authority of the city, published as above and adopted by a majority of the voters (Wash. Const. 1890, Art. XI. §10). For citizens' initiative see p. 435.

The favorable experience of St. Louis caused an effort in the California Constitutional Convention of 1879 to secure similar privileges of self-government for San Francisco. At that time the charter of San Francisco was a volume of 319 pages of fine print. Originally, it covered only 31 pages, but more than 100 supplemental acts had been passed leading to much confusion and numerous evils. Many of these acts, says Oberholtzer, had been passed in the interests of single individuals and corporations. Half a dozen men framed them and took them to Sacramento, and had them passed without the wish, and often without even the knowledge, of the people or even the officers of the city.\*

Those in the convention who opposed home rule declared that San Francisco would break loose from the rest of the state and set up an independent government of its own. "This is the boldest kind of an attempt at secession," they said, and offered an amendment that the state should give the city all the privileges and consideration accorded the most favored "foreign" nations, and should provide a duly accredited minister as "representative of the state to the city."

In spite of all opposition, the California constitution of 1879, Art. XI. §8, permitted any city of more than 100,000 population to elect 15 freeholders to frame a charter to be published in two local papers for 20 days, submitted to the people within 30 days after the ceasing of such publication, adopted by a majority of those voting, and approved by the legislature. Amendments can be made at intervals of not less than two years by proposals submitted by the legislative authority of the city to its voters and ratified by 3/5 of the qualified electors voting,† and approved by the legislature. In 1887, the privilege of home made charters was extended by constitutional amendment to all cities over 10,000, and in 1890 all cities above 3500 were admitted to freehold charter privileges. The legislature must approve or reject the charter as a whole.

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\* E. P. Oberholtzer in *Annals of the Amer. Acad. of Pol. and Social Science*, Vol. 3, p. 736, *et seq.*

† At the Extra Session in 1900 the Legislature proposed an amendment to §8 changing the requirement of a three-fifths vote for charter amendments to a majority vote.

Under these laws, St. Louis, Kansas City, San Francisco, Sacramento, Oakland, Los Angeles, Stockton, San Diego, Seattle, Tacoma, Duluth, St. Paul, etc., have established charters of their own making.

The St. Louis charter gives the city power to grant franchises, construct street railways, buy and hold property, real and personal, to be used for the erection of water works, or gas works, to supply the city with water, or light, for the establishment of hospitals, or poor houses, etc., *or for any other purpose*; secures the local election or appointment of the city officers required by the charter; and provides that amendments to the charter shall be submitted to the people separately. The people have no initiative, however, as to amendments, and neither initiative nor referendum as to ordinances.

In the Los Angeles charter, the 23d corporate power is as follows:—

“To exercise all municipal powers necessary to the complete and efficient management and control of the municipal property, and for the efficient administration of the municipal government, whether such powers be expressly enumerated or not, except such powers as are forbidden or are controlled by general law.” That is suggestive of the principle I have spoken of as the Manhood rule, but the explicit separation of municipal and state affairs, and *exclusion* of the legislature from the distinctively municipal field are still missing, and a strict construction of such indefinite phrases is apt to take the life and liberty out of these broad clauses.

The new charter adopted by the voters of San Francisco in May, 1898, Art. II., Chap. 1, §13, provides that “upon petition signed by a number of voters equal to 15 per cent. of the votes cast at the last election, asking that an ordinance to be set forth in such petition be submitted to the voters, the Board of Election Commissioners must submit such proposed ordinance to the vote of the electors at the next election.”

*The initiative and referendum upon amendments to the charter is also secured to the voters thru a similar 15 per cent. petition.* (§22.) The purchase of land more than \$50,-



000 in value, the lease or sale of any public utility, or the grant of any franchise for the supply of light or water *must* be submitted to the electors—no petition is necessary. (§21.) The people, I hope, will use their initiative to secure an amendment placing street railway and other important franchises on the compulsory referendum list. The granting of franchises is in the hands of the city (Art. II, Chap. I, § 13, Chap. II., §§6, 7, etc.) and Art. XII., p. 124, entitled, "Acquisition of Public Utilities," opens with this remarkable passage:—

"It is hereby declared to be the purpose and intention of the people of the city and county that its public utilities shall be gradually acquired and ultimately owned by the city and county. To this end, it is hereby ordained"—then follow provisions that upon a 15 per cent. petition favoring the acquisition of any public utility, the Board of Supervisors shall immediately take steps to procure plans and estimates of cost and enter into negotiations for the permanent acquisition of such utility by construction, condemnation, or purchase, so that it may, within six months after said petition, formulate a proposition to be submitted to the voters. Or, the supervisors may themselves pass an ordinance embodying the idea of the petition.

There is another clause that does not require a petition for public ownership to put it in operation. It is to the effect that "within one year of the date the charter takes effect, and at least every two years thereafter, till the object of this article shall have been fully attained, the supervisors must procure plans and estimates of the actual cost of the *original construction* and completion by the city of *water works, gas works, electric light works, steam, water and electric power works, telephone lines, street railroads, and such other public utilities* as the supervisors or the people by petition may designate."

Article XIII, "Civil Service," requires the mayor to appoint three persons "known to be devoted to the principles of civil service reform" to act as a civil service commission, and no two of the commissioners can at any time belong to the same political party. These commissioners are to classify

employments, and establish "public, free, practical, competitive examinations." Each appointment to the classified service must be made from a list of three applicants having the highest rank for excellence in the examinations for health, capacity and fitness for the duties of the position to which they aspire. The appointment is on probation for six months. At or before the expiration of this period, the head of the department or office in which the candidate is employed may, with the consent of the commissioners, discharge him on assigning in writing to the commissioners his reason for so doing. After the period of probation, the appointee "cannot be removed, except for cause, upon written charges, and after an opportunity to be heard in his own defence," the trial to be before the commissioners, or some officer or board appointed by them.

"Laborers" are not examined, but appointed according to priority of application.

The officers put in the classified service make a long list, including the county clerk, assessor, tax collector, sheriff, auditor, the board of public works, the police department, the fire department, the board of election commissioners, board of health, and all boards or departments controlling public utilities.

A splendid charter: civil service, public ownership, initiative and referendum, and a very substantial degree of home rule—three cheers for San Francisco—and yet some of the reformers of 'Frisco complain that the charter is imperfect; very well, friends, you have the initiative; educate the voters and perfect it. What more do you want than the initiative, and a free press? You have the future in your own hands subject only to the possible contingency of adverse legislation.

The constitutions of California, Washington, etc., and the charters of many municipalities contain a clause declaring that: "Any county, city, town or township may make and enforce within its limits, all such local, police, sanitary, and other regulations as are not in conflict with general laws." (Cal. Const. Art. XI., §11.) This gives municipalities considerable freedom, whether they have freehold charters or not; in fact, so far as *regulations* are concerned, it

is the Manhood Principle itself. But the word "regulations" is not broad enough to cover radical changes of structure or policy, or purchase or sale of large properties, or launching into large business enterprises.<sup>1</sup> If the clause gave the city power to do any *act* not in conflict with general law, we should have the Manhood Principle.

Section 25 of Art. IX. of the Missouri constitution says that "notwithstanding the provisions of this article the general assembly shall have the same power over the city and county of St. Louis that it has over other cities and counties of this state." That is, it has almost unlimited power to pass general laws, and is not entirely debarred from special legislation. By Art. IV., §53, however, the general assembly is forbidden to pass any local or special law:

Regulating the affairs of counties, cities, townships, wards, or school districts;

Authorizing the laying out, opening, altering, or maintaining, roads, highways, streets, or alleys;

Vacating roads, town plots, streets, or alleys;

Relating to ferries or bridges, except interstate;

Incorporating cities, towns, or villages, or changing their charters;

For the opening and conducting of elections, or fixing or changing the places of voting;

Creating offices, or prescribing the powers and duties of officers in municipalities;

Regulating public schools;

Exempting property from taxation;

Regulating labor, trade, money, or manufacturing;

Creating corporations, or amending, renewing, extending, or explaining the charters thereof;

(1) Regulations will not cover an attempt to change the charter, or abrogate a fire department established by an act which forms part of the charter. (*People v. Wiltshire*, 96 Cal. 605, 1892). Neither will the clause justify a violation of fundamental principles of justice and liberty. An ordinance prohibiting the carrying on of a laundry in town, except in specified blocks, and with a written permit upon consent in writing of a majority of the real property owners in the block, was held to be beyond the authority conferred by the clause, such ordinance being considered an unreasonable interference with the inalienable right to engage in a lawful occupation, and with the right of the owner of property to devote it to a lawful purpose. (*Ex parte Sing Lee*, 96 Cal. 354, 1892.) But, the courts have held the clause to be "a broad far reaching power, enabling cities to pass any regulation not in conflict with general laws or fundamental principles of constitutional liberty. (*Ex parte Lacey*, 108 Cal. 326, 328, sustaining an ordinance prohibiting steam shoddy machines or steam beating machines within 100 feet of any church, or school-house, residence or dwelling.) The clause was intended to make cities more independent of legislation. (*In re Guerrero*, 69 Cal. 88; *in re Stuart*, 61 Cal. 314.) Under it an ordinance of San Francisco regulating the sale of liquors, was held good (*Ex parte Hayes*, 98 Cal. 555); and, another ordinance regulating the sale of opium, and prohibiting it except under proper restriction, was sustained (*Ex parte Hong Shen*, same volume).

Granting to any corporation, association, or individual any special or exclusive right, privilege, or immunity, or to any corporation, association, or individual, the right to lay down a railroad track;

Legalizing the unauthorized or invalid acts of any state or municipal officer;

In all other cases where a general law can be made applicable, no local or special law shall be enacted; and whether a general law could have been made applicable in any case is hereby declared a judicial question, and as such shall be judicially determined, without regard to any legislative assertion on that subject.

Nor shall the general assembly, indirectly, enact such special or local law by the partial repeal of a general law, but laws repealing local or special acts may be passed.

There are other provisions against special legislation, but these are all that materially affect municipalities. One might think that local legislation had been abolished, but that is not quite true. At the last session (1897) the Missouri legislature passed a special act defining the boundaries of the city of Palmyra, and another to give the city of Poplar Bluff authority to vacate a cemetery.

Section 54 of Article IV., provides that NO local or special law shall be passed unless a notice of it stating its substance shall be published in the locality affected at least thirty days before the introduction of the bill in the general assembly.

The constitutions of all the other four states we have been considering provide quite fully against special legislation, largely in the same words as those just quoted from Missouri, so that the freehold charters are not likely to be much interfered with except by general legislation.<sup>1</sup> They are clearly subject to this to some extent in all the states named, and in some of them, at least, no portion of the municipal business,

(1) "A law is general and constitutional when it applies equally to all persons embraced in a class founded upon some natural or intrinsic or constitutional distinction, it is not general if it confers particular privileges, or imposes peculiar disabilities or burdensome conditions in the exercise of a common right upon a class of persons arbitrarily selected from the general body of those who stand in precisely the same relation to the subject of the law." *City of Pasadena v. Stimson*, 91 Cal. 238, 251; see also *Rauer v. Williams*, 118 Cal. 401.

Legislation affecting cities having 150,000 or more inhabitants is an improper attempt *by the act itself* to create a class of municipal corporations for a special purpose, without reference to the existing classification by general law, and is local and special legislation. *Denman v. Broderick*, 111 Cal. 96.

Classification must be founded on differences defined by the constitution, or which are natural, and suggest a reason which might rationally be held to justify the diversity in the legislation. In a general law, none must be omitted that stand on the same footing regarding the subject of legislation.

Legislatures cannot, by special act, create a class of cities of a population between 10,000 and 25,000 for the purpose of increasing the salaries of policemen in a particular city; act void, *Darcy v. San Jose*, 104 Cal. 642.



however purely local it may be, is secure from legislative control.<sup>1</sup> The freehold charters themselves may be changed by the legislature, and the constitutional provision as to amending charters at intervals of not less than two years by proposal submitted to the voters by the city authorities does not prevent the Legislature from changing the charter by general legislation within the two years.<sup>2</sup> In California, the cities making home charters found themselves so hampered by general laws that they secured a new amendment to the constitution. By the constitution, the charters were to supersede existing charters and all special laws inconsistent with such charters. In *Davies v. Los Angeles*, 86 Cal. 37, 40, it was held that a general law relating to the opening and widening of streets

<sup>1</sup> *Ewing v. Hoblitzelle*, 85 Mo. 64, 78, general law about elections in cities of 100,000 or more, was held to apply to St. Louis in spite of its freehold charter, and it overruled the provisions of this charter as to the registration of voters. See also 122 Mo. 63 and 126 Mo. 652.

In *Kansas City v. Scarritt*, 127 Mo. 642, however, the court distinguishes these cases and *others* dealing with laws affecting state interests from cases dealing with laws affecting local interests, and an act giving cities organized under Art. 9, §16 (the freehold charter clause of the constitution), a right to take land for parks and boulevards thru a board of park commissioners, was held void as amounting to a legislative amendment of the freehold charter in respect to internal municipal affairs. The court said that under the constitution the freehold charter could be amended by vote of the people "*and not otherwise*." It remarked that the legislature might pass general laws as to state interests and they would be paramount to the freehold charters, and referred to 85 Missouri, etc., just cited, but said: "These decisions should 'not be held to warrant the exercise of state legislative power over such 'city charters, so far as relates to the government of subjects of merely local and municipal concern.'" This distinction and decision in 127 Mo. excludes the legislature from altering the freehold charters (even by general laws) in respect to matters of purely local concern. That *ought* to be the law, but, I doubt if it is as yet, unless the courts are ready to carry the Michigan doctrine to its logical limit. In view of the fact that the constitution says that the freehold charters shall "always be subject to the laws of the state," it seems clear that the "not otherwise" in the clause relating to charter amendments must be confined to amendments, as such. The effect upon a charter by reason of its subjection to a general law of the state is not called an amendment by the constitution, and the court in doing so goes outside of and beyond the constitution, and makes a constitution for itself. There is no distinction in the constitution between general laws affecting state interests and general laws affecting municipal interests—the charters are subject to all general legislation. If a law affecting the charter is an amendment and void, as a violation of the provision that the charter shall only be amended by vote of the people, then the law considered in 85 Mo., which concerned elections and affected the charters was an amendment and void as a violation of the said provision, by which rule the legislature could pass no law affecting the freehold charters, and the provision subjecting those charters to state legislation would be abrogated. I wish the decision in 127 Mo. were good, but I fear it is not. At least the reason given by the court will not stand. If the court had based its decision on the broad principle of inherent right of local self-government carrying out the line of thought suggested and acted upon by the Michigan and Indiana courts, we might hope for much from the decision; but as it is it is not likely to be of much benefit.

None of the other constitutions in the freehold charter states are like the Mo. constitution in the "not otherwise" clause, except the Constitution of Minnesota, which says that the freehold charter may be amended by a vote of "three-fifths of the qualified voters of such city or village voting at the next election, and not otherwise; but such charter shall always be in harmony with, and subject to the constitution and laws of the State of Minnesota."

<sup>2</sup> *People v. City of Coronado*, 100 Cal. 571 (1893).



controlled the city in spite of its freehold charter. In San Diego all street work had to be done under state law, the city police court was deprived of its charter jurisdiction, and the board of education could not operate according to the charter. Finding that this unlimited subjection to general laws largely nullified the advantages of the new charters, the cities united in a demand for a new amendment leaving out the word "special." The adoption of this change by a vote of 3 to 1 was declared Dec. 30th, 1892. And now §8 of Art. XI of the Cal. constitution provides that

"Any city containing a population of more than 3500 inhabitants may frame a charter for its own government *consistent with and subject to the constitution and laws of this state,*" which charter "*shall become the organic law thereof, and supersede any existing charter and all amendments thereof, and all laws inconsistent with such charter.*" By the amendment of Nov. 3, 1896, "cities and towns heretofore or hereafter organized, and all charters thereof framed or adopted by authority of this constitution, *except in municipal affairs,* shall be subject to and controlled by general laws." (Sec. 6, Art. XI.)

This seems like real home rule, but the sphere of "municipal affairs" is not defined and the whole matter is rather indefinite.\*

It is quite clear as to all the States named except California (and possibly Missouri) that the legislature can modify, limit or annul the powers and privileges of cities under their freehold charters, but it is equally clear that the charter liberties will very soon gather about them a public sentiment that will protect them, and lead in the course of time to an efficient demand for a specific, definite, constitutional division between state and municipal functions. A city that enjoys self-government in local business for a few years, originating and deciding for itself, without legislative intervention, will soon come to regard the privilege as an inalienable right. The limitation of legislation to general laws tends to prevent unjust and oppressive interference in municipal affairs because a bad general bill having a wider incidence will rouse more opposition than a special act. In every way the provisions of the constitutions

\* The charter is to be consistent with and subject to the laws of the state, and yet it is to supersede all laws inconsistent with it, and later, the charter, except in municipal affairs, is to be controlled by general laws. Perhaps a fair interpretation would be that the charter is to supersede all *existing* laws inconsistent with it, but is to be subject to *subsequent* general laws except in respect to distinctly local matters.

under discussion appear to constitute a marked advance, and to lead inevitably to a strong acceleration of the movement toward assured home rule in local municipal concerns, with free initiative under general law along the whole line.

Thru the growth of public sentiment, crystallizing finally into constitutional enactment, the control of streets and local franchises, water works, gas works, electric light plants, street railways, telephones, fire departments, bath-houses, lodging-houses, hospitals, parks, market-houses and other business and proprietary matters of peculiarly local character, will be secured to the municipality free of legislative intervention, subject only to the requirements of the initiative and referendum, the broad principles of justice and liberty that underlie and permeate our institutions, and the regulative rules to secure co-ordination, uniformity, symmetry, equalization, etc., that are or may be incorporated in our constitutional law.

Thru and beyond the guaranteed field of exclusive local sovereignty will go the all embracing right of free initiative and decision except where state or national law forbids. By these two improvements, with reasonable guards against special legislation, municipal independence will be achieved.

#### POINTS FOR CHARTER LAWS.

It is probable that in the near future other states will adopt constitutional provisions in favor of home rule. In view of the movement along the Missouri line, it is well to note that:

(1) The initiative in calling an election to choose freeholders to make a charter should not rest entirely with the city officials—the people should be able by petition to start the ball, as in Minnesota and Louisiana.

(2) The charter should be required to contain provisions securing the initiative and referendum on amendments and ordinances.

(3) If the approval of the legislature is required, as in California, the constitution ought to declare that the charter, when approved, should be deemed a contract and protected as such.

(4) An effort should be made to get the constitution not merely to authorize municipalities to make their own charters,

subject to the general law of the state, but to *define* a certain area of local business in which the city should be supreme, and from which the legislature should be absolutely excluded except so far as it may be specifically empowered by the constitution; and in addition to this it should authorize cities and towns under proper restraint in respect to the referendum, etc., to act in public matters *beyond* the specified area, in any way they may see fit so long as they do not infringe the law above them. This would open the doors of freedom wide to all municipalities whether they made new charters or not, and give them a limited field of assured self-government beyond the interference of the legislature—a bit of real sovereignty, or home rule *de jure*, instead of mere home rule *de facto* at the pleasure of the legislature.

(5) The constitution should contain full safeguards against improper special legislation.

#### SUMMING UP WE FIND THAT:

The cure for the evils of excessive dependence is a reasonable independence. The remedy for municipal subjection is municipal sovereignty. A city has a right to manage its local business without interference, and should be free to act outside the distinctive local sphere so long as it does not infringe a positive law of state or nation.

The best method of establishing Home Rule would be thru Constitutional provisions:

Drawing a line between state affairs and local interests as clearly as the line between state and federal interests is drawn in the National Constitution;

Excluding the legislature from the field of local municipal business, so that the city may be sovereign in its own peculiar sphere just as the state and nation are sovereign in their spheres; free to act in its own concerns, subject only to broad limitations such as those applied to states in the federal constitution;

Affording proper safeguards against special legislation, even in matters wherein municipal life merges into state life;

Guaranteeing the local selection of local officers;

Securing to every city and town the right to do any act whatever, whether inside the field of local sovereignty or beyond it, so long as it does not conflict with state and national law; reversing the present rule, and instead of the principle that a city can do nothing without permission, establishing the principle that a city can do anything unless forbidden—a difference as great as that between servitude and liberty;

And according to every municipality the right to frame its own charter;

Thus may be secured a reasonable independence for municipalities from improper legislative control, but

Civil service regulations,

The Initiative and Referendum upon ordinances and charter provisions,

And the public ownership of monopolies

must be established also, else freedom from legislative bossing may mean subjection to councils, local politicians and private corporations.

Under such Home Rule provisions each city and town might make its own charter, choose its own officers and govern itself subject only to the broad limitations of state and national law. Nothing could do more than such local self-government for the cause of municipal progress and purity. And on that cause hangs the future of the Republic. A hundred years ago only one-thirtieth of the population of the United States dwelt in cities. In 1890 one-third of our people were in cities of more than 8000 inhabitants. It will not be long before half the people live in cities, and when we include the towns, it appears that municipal problems already affect directly at least five-sixths of our people, and indirectly, but nevertheless most vitally, all the rest.

Dr. Shaw, who is probably the highest authority on municipal government on this side of the sea, or perhaps in the world, has expressed himself in these strong words:<sup>1</sup>

(<sup>1</sup>) In the last few years municipal home rule has been favored by several other writers and speakers of high authority; Dr. Edward Everett Hale, Hon. Seth Low, Senator Fassett, Prof. F. J. Goodnow of Columbia, Dr. James of Chicago University, and E. P. Oberholtzer being among the number. Hon. Seth Low's address on "Municipal Home Rule," at Brooklyn, October 6, 1882, Dr. Hale's article in the "Cosmopolitan," Vol. 16, p. 736 (1894), Prof. Goodnow's "Municipal Home Rule," Macmillan & Co., 1895, Oberholtzer's

"Good government and progress in our larger cities will be greatly aided by the extension of their powers of local self-government, or the establishment of municipal home rule, so that the people may feel that they have their own municipal welfare clearly and definitely in their own hands."

And again, discussing the New York charter: "We shall never reach a permanent basis in this country until we have attained simplicity and unity, so that the people of a large town may feel that they have their own municipal weal or woe clearly and definitely in their own hands. *Then a strong public opinion will arise to protect such municipal home rule*, and with or without constitutional safeguards, we shall find that municipal government will go on steadily."

On the way toward the solid independence outlined above, a number of partial reforms may be of advantage. When it is not possible to get a whole loaf, half a loaf is better than none.

A. Constitutional provisions may be adopted covering part of the ground. This has been done to a considerable extent already as is shown in the accompanying diagrams.

B. The Michigan Doctrine may be followed by the courts of other states. Efforts to secure such rulings even if unsuccessful cannot fail to do good by directing attention to the fundamental importance of local self-government and the weighty opinions of Judge Cooley and others.

C. Broad statutes may be passed giving cities larger powers, especially in regard to the granting of franchises, and the right

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article in the "Annals of the Amer. Academy of Political and Social Science," the Fassett Report, and Dr. Shaw's "Municipal Government," already referred to, are specially valuable.

At the convention of the League of American Municipalities, held at Detroit in August, 1898, and containing mayors and aldermen and other officials from a large number of the leading cities of the country, the principle of municipal home rule was most enthusiastically and almost unanimously endorsed; and at the conference of the National Municipal League, held at Indianapolis, December, 1898, a committee consisting of Dr. Albert Shaw, Clinton Rogers Woodruff, Professor Frank J. Goodnow, Horace E. Denning, Chas. Richardson, Professor Leo S. Rowe, and Geo. W. Guthrie, reported in favor of constitutional amendments giving all cities of 25,000 people the power to frame their own charters, restricting state action to matters requiring state uniformity, and forbidding the legislature to pass acts applying to single cities or groups of cities except by a vote of the cities themselves. The committee also recommends civil service reform, a single council elected for 6 years, concentration of all administrative power in the mayor, separation of legislative and administrative powers, and constitutional provisions preventing councils from granting franchises for more than 21 years, and requiring itemized accounts from operating companies. Proportional representation, the initiative and referendum and the recall, and some other things are needed to make the list a perfect one.



to own and operate local business enterprises. A considerable movement has taken place in this direction in the last few years, but it often requires a hard fight to pass such bills, and they are apt to be narrowed in scope, and their usefulness impaired by amendments and limitations introduced by corporate influence. Moreover, they are subject to legislative alteration or repeal. In spite of all their imperfections, however, they are very important aids while on the way to solid constitutional measures, and the growth of public sentiment around them gives them, in the course of time, a practical stability much greater than that which they possess theoretically.

The following tables with their explanations afford an indication of the present condition of municipal law on some of the most important lines:

In examining the tables it must be remembered that the finer shades of legislation are not indicated in them. The crosses in each column represent general legislation of some sort in reference to the subject stated at the head of the column. But the cross opposite Missouri, for example, in a given column may represent a very different law from that represented by another cross in the same column opposite Idaho or California. Under special legislation the provisions are for the most part quite similar down the whole length of each column, the wording in many cases being identical; yet even here there are some differences, especially in column B (see below). It is in columns A, K and L, however, that the widest variations occur.

I. Constitutional provisions requiring the local selection of local officers are of great importance. In Massachusetts, Pennsylvania, Missouri, Wisconsin, etc., a few county officers must be locally chosen. In Ohio, Georgia, etc., county officers, in general, are to be elected by the people of the county. In Minnesota, county and township officers are to be locally elected. In Kansas, township officers, and in Kentucky, county and district officers, mayor and council and police judges in towns and cities must be locally elected. In New York the constitution provides that *municipal officers shall be elected by the electors of the municipality, or ap-*

# TABLE I.

## MUNICIPAL FREEDOM

SECURED BY CONSTITUTIONAL PROVISIONS

(including amendments to date).

	A	B	C	D	E	F	G	H	I	J	K	L
States and dates of Constitutions.	Requiring local elections or appointment of local officers.	Requiring notice of special legislation.	Forbidding Special Legislation.				As to Franchises and Corporate Powers.				Requiring local consent to incorporation, or for st. ry, gas, elec. l., etc.	Establishing right of municipalities to make their own charters.
			To create local offices or prescribe their duties or regulate local elections.	To regulate municipal affairs.	To open or vacate streets, alleys, etc.	Ferries and bridges.	Railroad tracks.	Any immunity privilege or franchise.	Creating corporations or granting corporate powers.	Creating or amending municipal charters.		
N. Eng. Gr.—												
Maine.....1819									X			
N. H.....1889											X	
Vt.....1793	co											
Mass.....1780	co		X									
R. I.....1842	X	X							X			
Conn.....1875	Xd											
Middle East												
N. Y.....1895	S	X			X		X	X			X	
N. J.....1875	Xd	X	X	X	X		X	X	X		X	
Penna.....1874	co	X		X	X	X	X	X	X	X	X	
Del.....1897	co											
Md.....1867	co								X			
W. Va.....1872	cd				X	X			X	X	X	
Mid. North												
Ohio.....1857	co								X	X		
Ind.....1851	D		X	X	X				X	X		
Ill.....1870	cd			X	X	X	X	X	X	X	X	
Mich.....1850	D			X	X				X	X		
Wisc.....1848	co			X	X	X			X	X		
Minn.....1857	cd		X	X	X			X	X	X		X
Middle												
Mo.....1875		X		X	X	X	X	X	X	X	X	X
Iowa.....1846					X				X	X		
Kans.....1859	T								X	X		
Neb.....1875	cd		X	X		X	X	X	X	X	X	
S. Dak.....1889	cd		X	X	X	X	X	X	X	X	X	
N. Dak.....1889	co		X	X	X	X	X	X	X	X		
South East												
Va.....1869	S											
N. Car.....1876	cd	X							X	X	X	
S. Car.....1895					X				X	X		
Ga.....1877	co					X					X	
Fla.....1885	cd	X			X	X			X		X	
Ala.....1875	cd	X							X		X	
Mid. South												
Miss.....1890	Xd				X	X	X	X	X	X		stat.
La.....1879	cd	X			X	X	X	X	X	X		
Texas.....1876	cd	X	X	X	X	X	X	X	X	X		
Ark.....1874									X	X		
Tenn.....1870	co								X	X		
Ky.....1891	S				X	X	X		X		X	
Mid. West												
Mont.....1889	co		X	X	X	X	X	X	X		X	
Ida.....1889	co		X	X	X	X	X	X	X	X	X	
Colo.....1876	cd		X	X	X	X	X	X	X		X	
Utah.....1895	S							X	X	X		
Nev.....1864	cd			X	X			X	X	X		
Wyo.....1889	co		X	X	X	X	X	X	X	X	X	
Pacific												
Ore.....1857	co				X			X	X			
Wash.....1890			X		X			X	X	X		X
Cal.....1879			X	X	X	X	X	X	X	X		X

X—a provision on the subject indicated at the head of the column. See next page.

*pointed by the authorities thereof.* It has been held under this that police commissioners and similar boards are not municipal officers, but state officers; and may still be appointed by the governor or selected in any way the legislature may direct. (15 N. Y. 532; 36 N. Y. 285.) But 55 N. Y. 50, holds that police commissioners of a city or town *are* municipal officers, and protected by the constitution, so that the state cannot appoint them, except where it combines several cities or counties in a metropolitan police district, as was the case in 15 N. Y. The Virginia constitution requires the local election of officers of cities and towns. In Utah also there is a sweeping provision requiring the election of local officers. In Michigan and Indiana, as we have seen, the courts take the ground that the local selection of local officers is an inherent right that exists without any express provision. An attempt has been made in column A to indicate the shades of enactment—co, meaning county; d, township or district; ct, county and district or county and township; x, municipal officers; S, a sweeping provision, and D a sweeping decision in favor of local selection of officers. My idea at first was to indicate the various shades in every column, but it proved impossible to do this in some columns with any satisfactory approach to accuracy and exhaustiveness, and so the uniform sign x is used to show simply that the state has a law of the kind indicated by the words at the top of the column, the shades of legislation being given in the text accompanying the tables.

2. Columns B to J inclusive relate to constitutional safeguards against special legislation. In many states such legislation is forbidden for some or all of the specified purposes—laying out or vacating streets, granting franchises to railways, turnpikes, ferries, etc., creating corporations or granting corporate powers, granting to any corporation, association or individual the right to lay down a railroad track, or any special or exclusive privilege, immunity or franchise whatever (Ill., Pa., etc.), creating municipal offices or prescribing their duties, creating or amending municipal charters or regulating municipal affairs, etc. (See Pa., Ill., Mo., Mont., Colo., Wy., etc.)

It is a marked advance to limit the legislative power of passing local and special acts, for the chance of enacting bad general laws without arousing effective opposition is very much less than in the case of special laws which affect fewer people. Yet great as the advantage is, there are some disadvantages. First, the legislature, if left free to classify municipalities, may be able to attain almost or quite the same individual and specific action under "general legislation" (or such as affects all the cities of the same class) that it formerly attained by means of what is called "special legislation." To prevent this the constitution should specify the classes into which municipalities are to be divided. Second. A city or town may *desire* special legislation in its behalf, of a perfectly proper sort, in cases where it does not seem best to pass a general law. To provide for such cases, a provision should be inserted allowing special legislation upon petition of the municipality or municipalities affected, a favorable referendum vote in such municipalities being required either on the petition or on the law that may be secured by it.

The constitution may require *notice* of special legislation to be sent to the municipality affected, and *re-enactment* of the law by the legislature if the city or town objects to it—a sort of mild municipal veto on local legislation (as in N. Y.) In some constitutions notice must be given of the intention to introduce a special bill so that those who object may be prepared to fight the measure, but no veto or re-enactment is provided for (N. J., Pa., N. Car., Fla., etc.) The notices thus provided for are very important as a means of preventing the practically secret passage of special acts, which is one of the prominent evils of the existing system in several of our states.

Sometimes it is provided that there shall be no special legislation in any case where a general law is applicable. (W. Va., Minn., Ia., Kans., S. Dak., S. Car., Ga., Ala., Miss., La., Tex., Ky., Mont., Colo., Nev., Wy.) Where the constitution also says, as in Minnesota and Missouri, that the question "whether a general law could have been made applicable in any case is hereby declared a judicial question," the provision is good;

otherwise, it is of little value, for, in the absence of such express declaration, the applicability of a general law is held to be a matter for the legislature to decide (113 Ill. 315, 8 Col., 122, 19 Kans. 303, 29 Ind. 409, etc.).

In column I, New Jersey provides that corporations shall not be created by special act, but "corporations" is held not to include municipal corporations. In several states the provision against creating corporations by special act expressly excepts municipal corporations. (Md., Mich., N. Car., Ala., Mont., Col., Oregon—Wis. excepts *cities*.)

3. The principle of local consent is recognized in fifteen constitutions. Massachusetts, Pennsylvania, South Carolina and Wyoming require local consent as a prerequisite to the incorporation of a city. New York, West Virginia, Illinois, Missouri, Nebraska, South Dakota, South Carolina, Georgia, Alabama, Kentucky, Idaho, Colorado and Wyoming, require local consent for the construction of a street railway. In some states the provisions are broader. Kentucky does not permit the construction of any street railway, gas, water, steam heating, telephone or electric light system in city or town without its assent. South Carolina requires local consent for street railways, telegraph, telephone, electric light, water and gas. Wyoming requires such consent for the first four just named, and South Dakota for the first three.

4. Constitutional provisions transferring from the state to the municipality, the power to *grant* street railway, telephone, water, gas, electric light and other local franchises, would be very valuable.

5. Also provisions establishing the right of cities and towns to own and operate water works, gas works, electric light plants, telegraph and telephone systems, street railways, etc., best when the clause is a sweeping one that gives *all* municipalities the right to own and operate *any* public work or service on the people's vote to that effect, proper provision being made respecting the purchase of existing plants. By South Carolina's constitution (1895) cities and towns are empowered to build or buy water works or light plants and supply the inhabitants on a majority vote of the people. (See comments on Table II.)



6. The last column is probably the most important of all in its bearing on future progress. The subject has already been dealt with in the text, but a very condensed summary may be useful at this point. (See further Appendix I.)

Five states have given municipalities the right to make their own charters. Mo., 1875; Cal., 1879; Wash., 1890; Minn., 1896, by Constitutional provision, and La. by statute in 1896. In Mo. the provision applies to cities over 100,000 population, in Washington to cities over 20,000; in California to cities over 3,500; and in Minnesota to all municipalities. The Louisiana statute adopts a rule precisely opposite to the Missouri principle, and permits all municipalities except New Orleans to make their own charters.

In Missouri the city elects thirteen freeholders who prepare a charter which is submitted to the people, and if ratified by four-fifths of the qualified electors voting, it becomes the charter of the city. St. Louis was given special authority to adopt a charter by a majority vote. Amendments may be submitted by the legislative authorities of the city, and adopted by a two-thirds referendum vote. (Mo. Const., 1875, Art. IX, §§ 16 to 25.)

In Minnesota, the charter is prepared by a board of fifteen freeholders appointed by the district judge and must be adopted by a four-sevenths vote of the people; amendments by a three-fifths vote. A constitutional amendment providing that charter amendments shall be submitted to the people on a 5 per cent. petition of the voters, was adopted at the polls Nov., 1898, by a vote of 2 to 1, and in 1899 the Legislature passed an act (chap. 351) pursuant to the home-rule amendments and defining the method of procedure under them. By this statute freeholders are to be appointed whenever 10 per cent of the voters of the city or town petition to that effect, (Minn. Const. Art. iv, amendments 1896, 1898, statutes 255, 1897, and 351, 1899).

In Washington, the legislative authority of the city may order the election of fifteen freeholders to prepare a charter to be adopted by a majority vote of the people. Amendments proposed by councils and adopted by majority referendum vote. By statute the city council must order an election of freeholders upon a petition of one-fourth of the voters of the city. (Wash. Const., 1890, Art. XI, § 10, and Wash. Code, § 1142.)

In California, fifteen freeholders are elected to make the charter which must be adopted by a majority vote at the polls, and approved by the legislature. Amendments, at intervals of not less than two years, submitted by the legislative authority of the city and ratified by a vote at the polls, and approved by the legislature. Const. amendment, 1896, shuts out legislative control over home-made charters so far as "municipal affairs" are concerned. (Cal. Const., Art. XI, §§ 6 to 8½ as amended down to 1899, will be found pp. LII to LIV Cal. Laws, 1899. See also Extra Session, 1900, Resolution of Feb. 9, proposing that charter amendments may be adopted by a majority instead of three-fifths.)

In Louisiana, on petition of a majority of the property owners of any city or town (except New Orleans) praying a referendum on a new charter, a copy of which must accompany the petition, the mayor and council shall submit the proposed charter to a referendum vote, and if adopted, it is to be the organic law of the municipality. (Laws of La., 1896, No. 135, p. 190.)

x=Statute Provision  
 c=Constitutional Provision  
 C=broad " "  
 xc=both Stat. and Const. Pro.

# TAB MUNICIPAL

ACCORDED BY LEGISLATIVE POLICY

		— Conferring local power to establish, construct, build, buy, organize, own.										Franchises	
States.		Streets.	Fire Depart- ment.	Water Works.	Gas Works.	Electric light Plants.	Street Rail- ways.	Telegraph and Telephone.	Ferries.	Wharves.	Markets.	Local consent required.	Local power to grant fr. and location.
N. Eng. Gr.—	Maine.....	x	x					x	x			x	
	N. H. ....	x	x		P	P			x			x	x
	Vt. ....	x	x					x				x	x
	Mass. ....	x	x	x	x	x		x	x			x	x
	R. I. ....	x	—									x	x
N. East	Conn.....	x	x		x	x			x			x	
	N. Y. ....	x	x	x	x							x <sup>c</sup>	x
	N. J. ....	x	x	x	x	x					x	x	x
	Penna. ....	x	x	x	x	x				x	x	x	x
	Del. ....	co										x <sup>co</sup>	
Mid.	Md. ....	x										x	
	W. Va. ....	x	x	x	x	x					x	x <sup>c</sup>	x
Mid. North	Ohio.....	x	x	x	x	x				x	x	x	x
	Ind. ....	x	x	x	x	P	x	x	x	x	x	x	x
	Ill. ....	x	x	x	P	P			x	x	x	x <sup>c</sup>	x
	Mich. ....	x	x	x	x	x			x	x	x	x	x
	Wisc. ....	x	x	x	x	x		x			x	x	x
Mid. South	Minn. ....	x	x	x	x	x	x	x		x	x	x	x
	Mo. ....	x	x	x	x	x				x	x	x <sup>c</sup>	x
	Iowa. ....	x	x	x	x	x			x	x	x	x	x
	Kans. ....	x	x	x	x	x				x	x	x <sup>c</sup>	x
	Neb. ....	x	x	x	x	x				x	x	x <sup>c</sup>	x
Middle	S. Dak. ....	x	x									x <sup>c</sup>	
	N. Dak. ....	x	x	x	P	P		x		x	x	x	x
	Va. ....	x	x									x	
	N. Car. ....	x									x	x	
	S. Car. ....	x	x	x	c	c						x <sup>c</sup>	
South East	Ga. ....	x	x	x	x						x	x	
	Fla. ....	x	x	x	x	x			x	x	x	x <sup>c</sup>	x
	Ala. ....	co										x <sup>c</sup>	x
	Miss. ....	x	x	x	x	x				x	x		
	La. ....	x											
Mid. West	Texas. ....	x	x	x	P	P					x	x	x
	Ark. ....	x	x	x							x	x	x
	Tenn. ....	x	x	x	x	x					x	x	x
	Ky. ....	x	x	x	x	x		x	x	x	x	x <sup>c</sup>	x
	Mont. ....	x	x	x	P	P					x	x	x
Mid. West	Ida. ....	x	x	x	x					x	x	x <sup>c</sup>	x
	Colo. ....	x	x	x	x	x			x		x	x <sup>c</sup>	x
	Utah. ....	x	x	x	x	x	x	x <sup>co</sup>			x	x	x
	Nev. ....	co	co									x	x
	Wyo. ....	x	x	x							x	x <sup>c</sup>	x
Pacific	Ore. ....	x		x	x								x
	Wash. ....	x	x	x	x	x	x	x	x	x	x	x	x
	Cal. ....	x	x	x	x	x	x	x			x	x	x

Under these provisions St. Louis, Kansas City, San Francisco, Sacramento, Oakland, Los Angeles, Stockton, San Diego, Seattle, Tacoma, Duluth, St. Paul, etc., have established charters of their own making. The St. Louis charter gives the city power to grant franchises, construct street railways, buy and hold property to be

## LE II.

## FREEDOM

EXPRESSED IN GENERAL LAWS.

co = County

P = power to provide for lighting

I = a law with very important exceptions

States.	operate, manage, control, deal with, grant, &c.—								Provid'g for		Debt Limit for Municipalities fixed by Constitution or Statute.
	Schools.	Libraries.	Parks.	Baths.	Hospitals.	Cemeteries.	Poor Houses.	Jails, work houses, houses of correction.	Local election or appointment of police.	Local election or appointment of other local officers.	
Maine.....	x	x	x		x	x	x	co	x	x	5% (const.)
N. H.....	x	x	x			x	x	co	x	x	
Vt.....	x	x	x			x	x	x	x	x	
Mass.....	x	x	x	x	x	x	x	co	I	x	2 & 2½% (stat.)
R. I.....	x	x				x	x		x	x	3% (stat.)
Conn.....	x	x	x			x	x	x		x	
N. Y.....	x	x	x	x		x	co	x	I	x	10% (const.)
N. J.....	x	x	x		x		x	co	x	x	
Penna.....	x	x	x		x	x	x	co	x	x	7% cons. 2% stat.
Del.....	x						co	co			
Md.....											
W. Va.....	x					x		x	x	x	5% (const.)
Ohio.....	x	x	x		x	x	x	x	x	x	
Ind.....	x	x	x			x	co	co	x	x	2% (const.)
Ill.....	x	x			x		co	x	x	x	5% (const.)
Mich.....	x	x	x			x	x	x	x	x	
Wisc.....	x	x	x		x	x	x	co	x	x	5% (const.)
Minn.....	x	x	x		x	x	co	x	x	x	10% (stat.)
Mo.....	x		x		x		x	x	I	x	5% (const.)
Iowa.....	x	x	x	x		x	x	x	I	x	
Kans.....	x	x	x		x	x	x	x	I	x	10% 2d cl. (stat.)
Neb.....	x	x	x		x	x	x	x	I	x	10% + (stat.)
S. Dak.....	x						co	x	x	x	5% + (const.)
N. Dak.....	x		x		x	x	co	x	x	x	5% + (const.)
Va.....	x				x	x	co	x	x	x	
N. Car.....	x				x	x	co	co	x	x	1% (stat.)
S. Car.....	x						co	x	x	x	3% bond lim. (const.)
Ga.....	x				x	x	co	co	x	x	
Fla.....	x		x			x	x	co	x	x	
Ala.....	x				x		co	x	x	x	
Miss.....	x	x	x		x	x	co	x	x	x	
La.....											
Texas.....	x	x			x	x	co	x	x	x	
Ark.....	x						co	x	x	x	
Tenn.....	x	x	x				co	co	x	x	
Ky.....	x	x	x		x	x	x	x	x	x	
Mont.....	x	x	x		x	x	co	x	x	x	3% + (stat.)
Ida.....	x	x	x		x	x	x	co	x	x	10% (bond stat.)
Colo.....	x	x	x		x	x	co	x	x	x	3% + (const.)
Utah.....	x		x	x		x	x	x	x	x	
Nev.....	x	x					co	co	co		
Wyo.....	x	x	x		x	x	x	x	x	x	2% + (const.)
Ore.....	x						co	co	x	x	\$2,500 (stat.)
Wash.....	x	x			x	x	x	x	I	x	5% (stat.)
Cal.....	x	x	x		x	x	x	x	I	x	

used for the erection of water works or gas works, to supply the city with water and light, for the establishment of hospitals or poor houses, etc., or for any other purpose; secures the local election or appointment of the city officers required by the charter; and provides that amendments to the charter shall be submitted to the

people separately. The people have no *initiative*, however, as to amendments, and neither initiative nor referendum, as to ordinances.

The banner charter of all is the one adopted by the voters of San Francisco in May, 1898. It contains strong civil service rules, declares for public ownership and operation of street railways, water, gas, electric light plants, telephone systems, etc., announces the policy of gradual absorption of all such monopolies, and provides for a popular initiative and referendum upon these questions, and upon ordinances of all sorts and upon amendments to the charter, upon petition signed by a number of voters equal to fifteen per cent. of the votes cast at the last preceding election.

The charter is not equally good in all its parts, but these admirable provisions make it possible for the people to mould the charter easily to any form they desire.

The people of San Francisco appear to have their own destiny more completely in their own hands than the people of any other large city in the country. Their control is subject only to general laws, and the approval of the legislature to charter amendments, which, it is said, is not likely to be withheld in the case of any reasonable amendment.

In Table II, as in the former one, two crosses in the same column may represent widely different laws; both will be general laws relating to the subject at the head of the column, but one law may be much broader than the other. The mass of statute law behind this table is too great for anything like full treatment here. We can only comment briefly on a few of the more important columns, and note a few general acts that fall outside the limits of the table.

One of the interesting columns is that which relates to the limit of municipal indebtedness with its frequent exceptions in favor of water works, and its expandibility by special vote, as in North Dakota, where by the constitution the municipal debt is not to exceed 5 per cent. on the taxable property, except that a city may expand the limit, 3 per cent. (i. e., make it 8 per cent.) by a two-thirds vote, and neither limit is to prevent the raising of funds to establish water works. There are also statute provisions requiring a referendum on the issue of bonds for buildings, fire apparatus, water works, sewers, street improvements, etc.

Another attractive part of the Table is that relating to local selection of local officers, especially the police column, and the

results of experimenting with state boards and metropolitan police laws in reference to New York and Boston and other large cities in various states. The matter of jails, poorhouses, cemeteries and hospitals is very important, and the question of schools, libraries, parks and baths, which may do much to relieve the pressure on the aforesaid, is also of vital moment. Education is undeniably a state interest. But it is also a municipal interest. The state properly determines the broad lines of policy. The municipality properly carries on the schools upon those lines, with wide discretion, local ownership and large control. The state may fix a minimum, co-ordinate all parts of the system and stimulate progressive movement, but the city or town should be free to go as far beyond the minimum as it can, and have large liberty to express its individuality.

The difference of quality in the measures behind the crosses in these columns is sometimes very great. For example, in New York free public baths *must* be established in 1st and 2d class cities. In Massachusetts, towns *may* establish public baths. So in most cases the provision regarding the establishment of libraries is permissive, but in Michigan a free library *must* be established in every township, and the clause is in the constitution. The difference in quantity is also considerable as well as in quality and force. Sometimes the provision only applies to one or two classes of municipalities, as just noted in the New York bath law; probably the smaller cities of New York state are not so much in need of compulsory washing as dusty New York and smoky Buffalo. As a rule, however, the whole group we are studying (including all cities, towns and villages) is behind each cross.

The most interesting columns of all are those relating to the streets and the local services which usually involve street franchises; as gas, electric light, street railways, telegraph and telephone systems, local consent and power to grant franchises. It would be profitable to take each state in order, bring to a focus the substance of all its provisions on these subjects and then note unities and contrasts and draw conclusions. Space, however, will not permit us to write out the record fully here



We will say a word about street railways and telephones, and then take municipal lighting and local control of franchises for a somewhat fuller treatment, choosing these subjects for detailed discussion because they represent the area of greatest movement—most rapid advance toward municipal liberty in the last few years.

In five states there are general laws empowering municipalities to own and operate street railways. In Minnesota, any city or village may, on a two-third referendum vote, buy and operate street railways. In California, the power to build or buy, own and operate street railways is given to 6th class cities (those of less than 3,000 inhabitants). The same full power is conferred in Indiana upon cities of 35,000 people or more, belongs to every city council in Utah, and to every incorporated city and town in Washington. (See Laws of 1897, Chap. 112, and Washington "Codes & Statutes," 1897, §1076.)

In 11 states there are general laws authorizing municipal telegraphs or telephones or both, and in 6 of the states the power is commercial. Maine, Massachusetts and Vermont give their *towns* a general right to put up telegraph and telephone wires for their own use. North Dakota and Utah allow cities to erect municipal fire signals. (Cities would have this right anyway under the general police power, without any specific law either general or special.)<sup>1</sup> In Kentucky, 3d class

(<sup>1</sup>) It is well to remember, in dealing with Table II, that the absence of general legislation does not always indicate the absence of municipal power. For example, some states have no general laws conferring on cities or towns the right to establish fire departments, yet it is practically a universal fact that cities and towns have that right under special provisions of their charters or as an implied authority under the broad power to provide for the safety and welfare of the community. (Dillon, §143.) Perhaps authority to establish a telegraph or telephone system for the use of city police and other officials might also be implied under the general police power. Markets may be established by municipalities under implied authority based on ancient usage. (23 Pick. 71, C. J. Shaw.) Power to establish cemeteries and hospitals will doubtless be implied from the general welfare or police clause usual in municipal charters, and I think the power to establish public parks and bath houses, which may help to make hospitals unnecessary, ought also to be implied from the said clause. The lighting of streets, being a measure strongly favoring safety and morality, should fall in the same class.

A municipality having power to pass ordinances respecting the police of the place, and to preserve health, is authorized as a sanitary and police regulation, to procure a supply of water and may bore an artesian well or take any other requisite steps. (Dillon, §146, 8 Mich. 458; 66 Ind. 396; 31 Ala. 542.) But while the right to establish water works is within the ordinary broad charter powers and needs no express grant, yet it is subject to arbitrary revocation by the legislature at any time. For example, the city of Memphis spent \$30,000 getting plans, etc., for water works, then the legislature granted a private company the exclusive right to build water works in Memphis. This was held to revoke the city's right, altho it had begun to build. (Memphis v. Memphis Water Co., 5 Heisk. 495.) For gas, electric light, street railway, telephone and other plants, for serving the inhabitants generally, there is no doubt that authority will not be implied,

cities (8,000 to 20,000) may supply inhabitants with telephone service. In Washington, 3d class cities (1,500 to 10,000) and towns (all municipalities of less than 1,500 inhabitants) have authority "To permit under such restrictions as they may deem proper, the laying of railroad tracks and the running of cars drawn by horses, steam, electricity or other power thereon, or the laying of gas and water pipes in the public streets, and *to construct and maintain* and to permit the construction and maintenance of TELEGRAPH, TELEPHONE (and electric light) lines therein." (*Track and Pipe clause*, Codes & Statutes, 1897, §938, 13.) Note that the general charter laws for 1st class cities (those over 20,000) and 2d class cities (those between 10,000 and 20,000) do not contain the above clause. *2d class cities*, however, in common with *3d class cities and towns* "may purchase, receive, have, take, hold, lease, use and enjoy property of every name and description, and control and dispose of the same for the common benefit." One not familiar with legal ways of doing things might think that this would cover the telephone and everything else, and it *might* be so held in court. If such a grant of power stood alone it would be very broadly construed, but as it is accompanied by a long enumeration of powers to establish water works, hospitals, docks, etc., the courts may construe the broad power in reference to the enumeration and hold that the broad clause gives authority to acquire and hold property of all sorts when needful for the specific purposes named in the express enumeration of powers.

In California, 3d class cities (15,000 to 30,000) have the same Track & Pipe clause as in Washington *except* that the italicized words and those in parenthesis are omitted—4th, 5th and 6th class cities (which three classes include all municipalities under 15,000 inhabitants) have the Track & Pipe clause, italicized words, and all except the parenthesis. 1st class cities, or those over 100,000, have no "Track & Pipe" clause except this: "To permit the laying down of railroad

that special requests are apt to meet with strenuous opposition and frequent defeat, and that no substantial liberty in these directions is possessed by municipalities in the absence of general laws or constitutional provisions. The same thing is true in respect to the columns that deal with franchises, local consent and power to grant.

tracks and running of cars thereon along any street, *for the sole purpose of excavating and filling in a street*, and for such limited time as may be necessary for the purpose aforesaid and no longer." The only power such cities have under general law to construct and operate lines for the transfer of intelligence by wire, is to maintain fire alarm and police telegraphs in the city or city and county.

We find, therefore, that in California, municipalities under 15,000 have unrestricted power to build and operate telegraph and telephone systems, but for larger places there is no general provision authorizing anything more than a fire alarm and police telegraph. The law so exactly mirrors the interests of the corporations that one cannot help having a suspicion that municipalization of the telephone is not permitted in the large cities *because* the private companies want to keep those cities for themselves, while municipalization is permitted in small places because there is little or no inducement for the big corporations to go there—they can use their money "to better advantage" in the larger cities.

In *Minnesota*, any city or village, on a 2/3 referendum vote, may buy and own and operate a telephone plant. And in *Indiana*, a general law provides that any city of more than 35,000 inhabitants may build or buy and operate telegraph or telephone lines to serve the city and its inhabitants, or may purchase and hold a majority of the stock of any corporation organized for such purpose. (For Wisc. see Appendix II, U.)

#### MUNICIPAL LIGHTING LAWS.

We come now to municipal ownership of lighting-plants and will then consider local control of franchises. In dealing with gas and electric light, we shall try to give an idea of the provisions that go with the light laws; so that they may be seen in true relations to their surroundings. We shall find that this method will lead us by almost insensible gradations to the study of local consent and powers of grant.

In *Maine, Vermont, Rhode Island, Delaware, Maryland, South Dakota, Virginia, North Carolina, Alabama, Louisiana, Arkansas, Nevada and Wyoming*, there appears to be

no general legislation permitting cities and towns to own and operate gas or electric light plants.<sup>1</sup>

*New Hampshire, Illinois, North Dakota and Texas* have general laws allowing municipalities to provide light for streets. Under this authority a municipality may build works of its own or contract with others to light the streets. (*Levis v. Newton*, 75 Fed. 884.)

In *Idaho*, a city or village may provide light for public purposes and, by the laws of 1897, may grant exclusive gas franchises to light the streets.

In *New York*, gas may be furnished for public use by any village owning water works.

In *Ohio* the law permits any city or town to erect or purchase gas-works whenever the council deems it expedient.<sup>2</sup> And a city may procure its own gas-works, and supply the city and its citizens, altho a gas company incorporated before this law was enacted is in operation in the city and is not in any default. The construction of gas-works by the city under such a law does not impair the obligation of contract. The gas companies took their charters subject to such contingencies, which might arise at any time by the exercise of legislative power to authorize municipal works.<sup>3</sup> (See Appendix II, U.)

In *Georgia*, a town or village may erect gas works. In *Oregon*, any city or town may build gas works. In *Montana*, all municipalities may build gas or electric light works, and in *Mississippi*, all municipalities may buy gas or electric light works.

*Connecticut* gives all municipalities the right to build or buy gas or electric light works and sell to the citizens. No. 115 of *Michigan's* laws for 1891 gave any city or incorporated village the right to build or buy, maintain and operate, works to supply the city or village and its inhabitants with gas,

(1) I say it "appears to be" because it is not easy to be absolutely certain about a negative relating to large masses of miserably indexed statutes. Great care has been taken and every volume of statutes has been examined under 30 odd topics or index heads. Still some pertinent facts may have escaped the notice of the writer or his assistants, and if any reader discovers an error of omission or commission, it will be appreciated as a favor if he will call attention to it by a line to the writer at Boston University Law School.

(2) Ohio Statutes, Revis. of 1897, §§ 2486-7; *State v. City of Hamilton*, 47 Ohio St., 52; *Hamilton Gas Light Co. v. Hamilton City*, 146 U. S., 258, 265-6 (1892).

(3) *Hamilton Gas Light Co. v. Hamilton City*, 146 U. S., 258, 268 (1892).

electric or other light. On petition of 100 voters the common council or board of trustees must submit to a referendum at the polls the question whether the city or village shall avail itself of the provisions of the law. On such referendum the law required a  $\frac{2}{3}$  favorable vote. This law was superseded by No. 186 of the same year, 1891, which provided that any city or incorporated village may build or buy, maintain and operate works to supply the city or village and its inhabitants with gas, electric or other light, or *contract for furnishing the same*. Then follow initiative and referendum provisions like those above except that a *majority* vote is sufficient, and then we find a proviso that the *clause relating to purchase, construction, maintenance and operation shall not apply to cities having more than 25,000 inhabitants*. Law No. 139 of 1893, provides that any city or incorporated village of *not more than 8,000 population*, which already owns and operates electric light works for its streets, may supply the inhabitants also. The private companies evidently wish to keep commercial lighting in the big cities for themselves as long as possible.

In *Tennessee*, all cities of more than 36,000 population may build or buy gas and electric light works to supply streets and public buildings and may supply *gas* to the people.

In *West Virginia*, the council of a city, town or village may erect or authorize or prohibit the erection of gas, electric light or water works.

In *Iowa*, a city or town may purchase, establish, erect, maintain and operate, within or without the corporate limits, water works, gas works, electric light and power plants, and may grant to individuals or corporations authority to erect and maintain such works. The term is not to exceed 25 years. No exclusive franchise is to be granted, and no such plants can be authorized, established, erected, purchased, leased or sold, or franchise extended or renewed unless the proposition is favored by a majority of the electors voting on it at a general or special election. Under these provisions, it is held that a municipality may supply its inhabitants with light or water by a plant of its own altho a franchise for the same purpose



may previously have been granted by the municipality to a private company. (Thomson Houston Elec. Co. v. Newton, 42 Fed. Rep. 723—bill to enjoin the city from erecting an electric plant, the company having spent \$20,000 in building a plant under its franchise previously granted it by the city, and being able to furnish all the electricity needed. See Iowa Code, 1897.) This is according to the principles of competitive business acted on by the corporations themselves—if you're not sharp enough to make a cast iron contract that will protect you all round, you must suffer the consequences—but it is not just for a city to disregard what is fair to others any more than for a private company to do so.

*Colorado* gives all municipalities the right to build or buy water or light works or grant light or water franchises. But no water or light works shall be constructed or authorized until sanctioned by vote of the people. Where municipalities have the power to grant franchises together with a general power to build or buy without limiting words, full commercial power or authority to sell to private consumers as well as to light streets and public places, would seem to be implied.

*Utah's* statutes in a single clause give city councils power to construct and maintain water works, gas works, electric light works, street railways, or bath houses, or to authorize the construction and maintenance of the same by others, or to purchase any or all of said works from any person or corporation.

In *New Jersey*, all cities may buy electric or gas or other light, or water works, and the franchise, and supply the city and its inhabitants.

In *Wisconsin*, any city or village may buy water works or light plants; municipalities may build lighting plants for street service, and may buy commercial plants, or, if there are none or none willing to sell, the city may erect such plants.

In *Pennsylvania*, boroughs may light the streets, and 3d class cities (those under 100,000 population) have the exclusive right to supply the city with gas or other light, or with water, and to erect works or authorize others to supply gas, light or water. The councils of any 3d class city, if author-

ized by a referendum vote at the polls, may buy (for such price as may be agreed on between the councils and the company's stockholders) all property of a water, gas or electric light company, and exercise all its rights. It is further provided that at any time after 20 years from the introduction of water or gas into any place by a private company, the town, borough, city or district in which the said company is located may become owners of the property by paying the net cost of erecting and maintaining the same, with interest thereon at 10 per cent. per annum, deducting from said interest all dividends theretofore paid. No company is to go in where the municipality has built works, except by consent of the municipality.

In 1891, *Massachusetts* passed an act permitting cities and towns to manufacture and distribute gas and electricity, build or buy, maintain and operate, gas or electric light works, and supply light to the city or town and its inhabitants. An amendment in 1894 permitted municipalities to furnish gas or electricity for heat and power *except* for operating electric cars. A city must have a  $2/3$  vote in each council and approval of the mayor in each of two consecutive years, and ratification by the majority of the electors at an annual municipal election. A town must have a  $2/3$  vote in each of 2 legal town meetings, 2 to 13 months apart. The municipality must buy suitable existing works if the owners file a schedule of property and terms of sale with the clerk of the city or town within 30 days after the final vote to establish municipal works. The price of the property "shall be its fair market value for the purposes of its use (no portion of such plant to be estimated however, at less than its fair market value for any other purpose) including as an element of value the earning capacity of such plant based upon the actual earnings being derived from such use at the time of the final vote. Such value shall be estimated without enhancement on account of future earning capacity or good will, or of exclusive privileges derived from rights in the public streets." Any locations or similar rights acquired from private persons must be paid for, and damages suffered by the severance of any por-

tion of the property lying outside the municipal limits are allowed, except where the main plant lies outside. Within 60 days after the filing of the schedule, either party may petition the Supreme Court to appoint special commissioners to estimate the price, and appeal lies from these commissioners to the Supreme Court.

The *Florida* acts of 1897 contain a statute modelled thruout on the Massachusetts law. It does not, however, require double adoption—a  $\frac{2}{3}$  vote of council, approval of mayor and ratification by the voters at the polls being sufficient without repeating the operation the following year. If the proposition fails at the polls, no similar proposal can be submitted for ratification within one year. The extreme restrictions in Massachusetts are due to the strenuous efforts and powerful influence of the corporations. It took a three years' hard fight to get the law, and even then it was not possible to pass it except with corporation amendments which seriously diminish its value.

In *Minnesota*, any municipality may build or buy water, gas, electric light or heat plants and sell to inhabitants, and under another law may *buy* street railways or telephone or power plants. (See below.)

In *Missouri*, any municipality may build or buy water, gas, electric light or power plants and sell water, gas, etc., to inhabitants.

In *Kansas*, under the laws of 1897, any municipality may build or buy water, gas, electric light or power, water or heating plants, and sell to inhabitants.

In *Nebraska*, 1st and 2d class cities may build or buy gas or electric light plants and sell the product.

In *California*, there are general provisions, 1st, that the common council may provide for lighting the city; 2d, that 6th class cities (all municipalities under 3,000 inhabitants) may acquire, own, construct, maintain and operate street railways, telegraph and telephone systems, gas and other works for heat and light; 3d, that 5th class cities (municipalities between 3,000 and 10,000 population) may purchase, lease or construct water or electric light works and sell water, heat, light and power

*South Carolina's constitution, 1895*, provides that any city or town, on a vote of a majority of its electors, may build or buy water works or light plants and supply its inhabitants.

The *Washington* statutes of 1897, Chap. 112, provide that any incorporated city or town may construct or buy, own and operate, water works (within and without its limits), gas, electric light, or other light plants (to serve the city or town and its inhabitants with public or private supplies of water, light, heat and power), and cable, electric or other railroads within its limits for the transportation of freight or passengers. A referendum is necessary, and if debt is to be incurred the proposition must be adopted by a 3/5 vote at the polls.

The "*Indiana Statutes*," of 1896, contain three most interesting provisions as to franchises: one relating to cities of 35,000 to 50,000 population, another to cities between 50,000 and 100,000 and a third to cities over 100,000. The three long enactments are identical. Their substance is that the city board of public works (appointed by the mayor) shall have power to purchase or erect, by contract or otherwise, and operate gas works, electric light works, street cars and other lines for the conveyance of passengers and freight, telegraph and telephone lines, steam and power houses and lines, to supply the city and its inhabitants, or to purchase and hold a majority of the stock of corporations organized for either of the above purposes. Also to contract for the furnishing of gas, steam or electricity, light or power to said city or the citizens thereof, and in such contract fix charges. To authorize and empower by contract, telegraph, telephone, electric light, gas, steam, or street car or railroad companies to use any street, and prescribe terms and conditions of such use, except that franchises are not to be for longer term than 25 years nor for a less return than 2 per cent. of the gross receipts. The exercise of all these powers is subject to the approval of the city council which has "exclusive control of the streets." New Jersey, Missouri, Texas and Kentucky also have provisions giving municipal authorities "exclusive" control of streets.

In *Kentucky*, 2d class cities (20,000 to 100,000 people) may provide lights, by themselves or others, for streets and

inhabitants; 3d class cities (8,000 to 20,000 people) may provide the city and its inhabitants with water, light, heat, power, and telephone service by contract or works of its own; 4th class cities may light public places by gas or otherwise; and in 1st class cities (over 100,000 i. e., Louisville) the board of public works has exclusive control of the lighting and use of streets. The Kentucky constitution of 1891 provides, §163, that "no street railway, gas, water, steam heating, telephone or electric light company in any city or town" shall lay its tracks, pipes, wires, etc., without consent of the local legislative authority, and §164 declares that "no county, city, town, taxing district or other municipality shall be authorized or permitted to grant any franchise or privilege or make any contract in reference thereto for a term exceeding 20 years. Before granting such franchise or privilege for a term of years, such municipality shall first, after due advertisement, receive bids therefor publicly, and award the same to the highest and best bidder. But it shall have the right to reject any and all bids. This section shall not apply to a trunk railway."

This principle of sale of franchise to the highest bidder is also recognized in New York, Ohio, Wisconsin, Missouri, Louisiana and California. In all, the method has been applied to street railway franchises, and in California, Wisconsin and Kentucky it has a much wider application. Generally the sale is to the company bidding the highest percentage of gross receipts, but the bid may be for so much cash down, as in New Orleans, or the franchise may be sold to the company agreeing to serve on the lowest fare, as in the Ohio provision (relating to 2d class cities, i. e., Cleveland). New Orleans has sold street railway franchises for cash at various times since 1879 when she first advertised for sealed proposals. Chap. 370 of Wisconsin's laws of 1897, provides for publication of full specifications, rates, etc., and advertisement for bids, before any city or village can grant a franchise to establish and operate a street railway, gas or electric plant, or water works or telephone system or other franchise involving the use of the streets. Chap. 361 provides for the submission of water and lighting grants to the voters at the polls, and *requires* such submission if 20 per cent. of the voters petition for it.



In *California*, by the laws of 1897, "every franchise or privilege to erect or lay telegraph or telephone wires or construct or operate street railways on any public street or highway, to lay gas or water pipes, erect poles or wires for transmitting electric power, or light, or to exercise any other privilege whatever hereafter proposed to be granted by the board of supervisors, trustees, county commissioners or other governing body of any city, county or town (excepting steam railroads, telegraph lines, and renewals of franchises for piers, chutes and wharves) shall be granted on the following conditions," viz: the application must be advertised for 10 days, with a statement that bids of so much per cent. (not less than 3 per cent.) of gross receipts will be entertained. The bids must be opened in open session and the franchise or privilege must be awarded to the highest bidder. The gain to the people from such notice and sale is a matter of much interest, as is also the exception clause.

By a *Missouri* statute of 1895, cities, towns and villages are to sell all franchises for electric light, gas, water or transit to the bidder offering the highest percentage of gross receipts.

In *New York* state, since Jan. 1, 1875, the legislature has been under constitutional prohibition in respect to special legislation granting the right to lay down railroad tracks, or confer exclusive privilege, franchise or immunity, and has not been able even under general law to give street railway companies a right to construct and operate roads in the streets of cities and towns, the consent of the local authorities being required for this by the constitutional amendment of Nov. 3, 1874; in force Jan. 1, 1875. In 1884, the legislature gave any incorporated city or village the right to sell street railway franchises at auction. The law did not *require* such sale. It was merely optional, and the New York Board of Alderman took advantage of this fact to give the Broadway Surface Railroad Company the right to operate a road from Union Square to South Ferry, exacting nothing but the 3 per cent. of gross receipts (5 per cent. after the first five years) which was the minimum allowed by the law. The Cable Railway Company had offered \$1,000,000 cash in addition to the statute per-

centages, but the Broadway Surface people bribed aldermen at the rate of \$20,000 each and secured the franchise at a cost of \$500,000 for bribes, lobby expenses, etc.<sup>1</sup>—half a million went to a few for corruption, in place of a million to the public for an honest franchise. Almost all the aldermen and officers of the Broadway Company were indicted, and a few convicted, and public indignation over the transaction led to the Cantor Act of 1886, which provided that all incorporated cities and towns *must* sell their street railway franchises at auction (except in case of companies already organized in municipalities of less than 40,000 people). The public sale of street railway franchises was now obligatory instead of optional. But as public sentiment and attention lapsed, corporate interests made themselves felt, and in 1890, the auction plan was restricted to cities above 90,000 inhabitants. In 1892 the Cantor plan was further eliminated from the law so that it ceased to exist except as to the single city of New York, and now the charter of Greater New York leaves it in doubt whether the auction principle has not been banished even from that city. The charter says that “nothing in this act shall repeal or affect the existing general laws of the state in respect to street surface railroads,” but §77 looks the other way and §§73 and 74 (see below) quite clearly indicate an intent to substitute full discretion and *publicity* for the obligatory auction plan. It would seem, therefore, that at present cities and towns in New York *may* sell street railway franchises at auction if they wish, but are not obliged to.

Several remarkable sales have occurred. In 1887, a premium of 26.3 per cent. of the gross receipts was bid for the 28th and 29th Street franchise, and 35 per cent. for the Fulton Street line in New York. The latter agreement was compromised after 6 years by the Sinking Fund Commissioners for 5 & 1/8 per cent., as the company claimed that it was losing money, and the 28th and 29th Street crosstown line was not operated till the Commissioners agreed to let the company off for half of 1 per cent. above the 3 per cent. statute minimum. In 1895, the Third Avenue Extension was sold for \$250,000

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(1) N. Y. Senate Doc. 79, 1886, Report of Road Com. on Broadway S. R. Co.

cash and a premium of  $38\frac{1}{2}$  per cent., making,<sup>1</sup> with the statute minimum,  $41\frac{1}{2}$  per cent. each year for the first five and  $43\frac{1}{2}$  per cent. each year afterward besides the \$50 car tax. In the same year The People's Traction Company and its competitors carried the bidding into the clouds for the capture of a short route important to the People's Company as a connecting link between its system and a prospective line outside the city limits. At the end of the day's bidding, the People's Company had offered 6975 per cent., or about 70 times the entire gross receipts. The next day the People's Co. and one of its rivals were ready to go on bidding, but a third company got out an injunction on the sale. The case went into the courts, and the franchise was awarded to the People's Co. for 100 per cent., but an appeal has been taken. It is said that the People's Co. could afford to pay many times the receipts of the short line rather than lose the link in its contemplated system. And it is also said that the company could arrange to make no charge for transfer over the short route so that the gross receipts would be nothing and the city would get nothing however high the bids might run, since 6975 per cent. or 10 millions per cent. of nothing is still nothing.

The charter of Greater New York provides (§16) that the municipal assembly may grant street railway franchises, and establish, maintain and regulate ferries. By §71 the rights of the city in and to its water front, ferries, wharf property, land under water, public landings, wharves, docks, streets, avenues, parks and other public places are hereby declared to be inalienable. By §73, no franchise or right to use the streets shall be granted by the municipal assembly for more than 25 years, but the grant may, at the city's option, contain a provision for renewals (at fair revaluations) not exceeding 25 years in the aggregate. The grant may provide that, at the end of the term, the whole property of the grantee shall become the property of the city without further compensation, or it may provide for a valuation and payment of that valuation. If the property becomes public without money pay-

(1) This sale was annulled on the ground that the cash bonus was beyond the law, and that the extension included two routes. *Beckman v. Third Ave. R. R. Co.*, 153 N. Y., 144.

ment, the city may operate it, or lease it for a term not exceeding 20 years. If the city takes the property by payment it must operate it for at least 5 years, after which it may continue to operate it or may lease it for limited periods in the same manner as it does its docks and ferries. By §74, the full terms of every proposed grant of franchise or right to use the streets must be published in the City Record for 20 days before the grant is made and at least twice in 2 daily newspapers, must be approved by the board of estimate and apportionment, must receive a  $\frac{3}{4}$  vote by ayes and noes in each branch of the assembly and the approval of the mayor. A  $\frac{5}{6}$  vote of each branch is necessary to pass a franchise over the mayor's veto, and at least 30 days must intervene between the introduction of any franchise granting ordinance and its final passage.

The New York Charter is complexly careful or carefully complex, and yet it does not adopt the most important of all checks upon corrupt or injudicious franchise grants, the initiative and referendum, which we have found in the new freehold charter of San Francisco, and in a less complete form, in the laws of Wisconsin, Michigan, Massachusetts, Florida, South Carolina, Colorado, Washington, Pennsylvania, and Iowa. Other examples will occur as we proceed.

#### LOCAL POWERS OF CONSENT, GRANT, &C.

The reader has doubtless noted, that as I predicted, we have drifted from powers of ownership to powers of grant. The laws often deal with the two in the same paragraph, and they are in reality merely complementary portions of the right of local self government in respect to local franchises. We have covered the entire body of statute law, and find that there is but one state in the Union (Louisiana) that has *no* general legislation requiring local consent for street railways, water, gas, electric light, telegraph, telephone and other street services, or empowering municipalities to grant such franchises.<sup>1</sup> Delaware, Maryland and Nevada have almost nothing, but

(1) Perhaps the Louisiana law of 1896 empowering municipalities to make their own charters should be considered as an indirect contribution under this head.

still there is a glimmer of light even in Delaware, it being enacted that a street railway shall not use a county bridge or road without consent of the county levy court elected by the citizens of the county—a mere scintilla of local self government in respect to franchises, but enuf to save Delaware's general laws from Egyptian darkness. Maryland requires consent of municipal authorities for water works, and Nevada authorizes cities and towns to grant gas and water privileges.

From these minimum recognitions of local right we pass by a series of gradations thru the meagre measures of Alabama, North Carolina, Georgia, Arkansas and New York up to the larger provisions of Massachusetts, South Dakota, Pennsylvania, Ohio, Illinois, Colorado and Montana, and the sweeping laws and constitutional safeguards of Indiana, Iowa, Wisconsin, Minnesota, Missouri, Kansas, California, Kentucky, Tennessee, Rhode Island, Utah, Wyoming, Washington, South Carolina and Florida.

One of the commonest recognitions of local right to control street services is a provision requiring street railways to get local consent to construct their tracks and subjecting their locations to municipal control. In 16 states (*California, Wyoming, Utah, Montana, Kentucky, Alabama, North Dakota, Kansas, IOWA, Missouri, Minnesota, Wisconsin, Indiana, Ohio, New York, Rhode Island*) there are effective provisions relating to the grant of street railway rights and franchises by municipalities. The states in italics provide for sale of the franchise, and Iowa requires a referendum. Thirty-five states expressly require local consent, and generally it is a *necessity*, there being no appeal from the local decision. In 13 states (*New York, West Virginia, Illinois, Missouri, Nebraska, South Dakota, South Carolina, Georgia, Alabama, Kentucky, Idaho, Colorado, and Wyoming*) a provision requiring street railways in cities and towns to get the consent of the local authorities has been put in the constitution.

A constitutional clause of this kind is of course bed-rock, not liable to be overturned by legislative action or appeal to state commission or court—a bit of real municipal sovereignty. In Kentucky, as we have seen, the provision requir-



ing local consent includes steam-heating, gas, water, street railway, telephone, and electric light in cities and towns, and in every case the municipality must sell the franchise to the highest bidder for a term not over 20 years. In South Carolina also, consent of the municipal authorities is necessary by the constitution not only for street railways, but for any railroad track, gas or water pipes, telegraph, telephone or electric light wires. In Wyoming, the constitutional clause covers the telegraph, telephone and electric light, and in South Dakota it covers the telegraph and telephone.

Twenty-six states make *local consent* necessary for gas (constitutional provision in Kentucky and South Carolina, statute elsewhere), and 15 of these states with 14 others confer upon local authorities the right to *grant* gas privileges. A right to grant must be distinguished from a requirement for local consent. The latter clearly indicates a policy of local control, but accords no right of initiation; while authority to grant gives power of initiation, but unless the authority is exclusive it affords no certainty of control. A mere power to grant does not exclude the idea of independent grants by the legislature directly; it is on its face only a concurrent power. A requirement of local consent is on its face a veto power and may be more valuable than a right to grant unless it is exclusive, in which case it includes the local consent idea, and is a creative and a veto power in one.

Twenty-one states require local consent for electric light (constitutional provision in South Carolina, Kentucky and Wyoming); 10 of the 21 and 14 others confer the right of grant. Eighteen states recognize by general law the principle of local consent in respect to telegraph (Kentucky, South Carolina, South Dakota and Wyoming in the constitution); 5 of the 18 and 8 others accord to some or all municipalities the right to grant telegraph privileges. With the telephone it is local consent in 17 states (same 4 in constitution); 6 of the 17 and 10 others, grant. (See Appendix II, U.)

These summaries afford some idea of the almost universal recognition of the right of local self government in respect to streets and franchises. The field of this recognition is of

course much broader than this discussion. We have not attempted to deal with municipal *regulation* of local services—a topic of enormous girth. The lowest forms of power that might fall within the lines of local consent and right of grant are what may be called the right of designation (which is really a regulative power) and the right of consultation. An example of the first is the local right to designate locations for railway tracks or telegraph posts without the right to refuse all locations. (See below.) An example of the second is the right of selectmen to grant or revoke licenses for telegraph, telephone or electric light poles and wires, *subject to appeal* to the Superior Court, as in New Hampshire.

The highest form of authority is a sweeping statute, or better still a constitutional provision, giving complete and exclusive powers of grant and revocation, purchase, erection, ownership and operation to every municipality, subject to the initiative and referendum, and possibly, in some cases, to the consent of a majority of the property owners chiefly affected. The principle of the initiative in respect to these franchises is recognized in the general legislation of three states (Wisconsin, Michigan and Nebraska), and the referendum in eleven (Colorado, Florida, Iowa, Massachusetts, Michigan, Minnesota, Nebraska, Pennsylvania, South Carolina, Washington and Wisconsin). In most cases these principles are only partially applied, as follows:

Colorado, gas, electric light and water.

Florida, gas, electric light.

Iowa, gas, water, electric light and power, telegraph, telephone and street railways.

Massachusetts, gas and electric works.

Michigan, gas, electric or other light.

Minnesota, gas, electric light, street railway, water, telephone, heat and power.

Pennsylvania, 3d class cities, gas, electric light, water.

South Carolina, gas, electric light, water.

Washington, gas, electric or other means of light, heat, power, water, cable, electric or other railways.

Wisconsin, gas, electric light, water.

Nebraska, municipal initiative and referendum covering all contracts, grants, franchises and ordinances of every sort (law of 1897), but the percentage of voters required to demand the referendum is high.

South Dakota, general state and municipal initiative and referendum (amendment to constitution, passed legislature, 1896, adopted by the people in Nov., 1898, by a large majority).

We have included water where it occurred in connection with the franchises specially discussed, but have not searched specially for referendum provisions relating to water works, or possibly the list would be somewhat longer.

The consent of property owners is required by general laws as follows:

Connecticut (see below) electric light, telegraph, telephone.

Illinois, gas, electric light, L roads.

Kansas, cities over 40,000, street railways.

Missouri, street railways.

North Dakota, street railways.

New York, (see below) street railways.

Sometimes the owners of more than half the frontage must assent (as in Illinois, North Dakota, etc., see below); sometimes the owners of half or two-thirds of the value (see New York below); sometimes a majority of the persons owning property on the line (see Kansas below).

In Connecticut and New Hampshire, the local authorities have exclusive *direction* of the places of tracks.

In Connecticut, no telegraph or telephone or electric light company, or company distributing electricity by wires or similar conductors, or using wires or conductors for any purpose, can place them in the streets or highways without consent of the adjoining proprietors or of two county commissioners (appointed by the General Assembly). *Subject to this and to appeal to the superior court* (appointed by the Governor and Legislature), the council of a city and selectmen of a town have *full control* of the location, re-location or removal of the aforesaid wires and conductors. In New Hampshire, appeal lies to the supreme court from the decision of

selectmen respecting telegraph and telephone privileges. In Maine, the local consent to street railways provided for by the Laws of 1895, p. 81, is subject to appeal from the municipal officers to the supreme court. The state lets the municipality go out of doors and walk around a bit, but keeps a pretty big string tied to it; except the right to build or buy light works, it has really nothing but rights of consultation, designation and regulation—no power of veto, little power of construction, very little real sovereignty.

Several of the sweeping provisions above mentioned have already been noted while speaking of municipal ownership (see paragraphs about Indiana, Iowa, Wisconsin, Missouri, California, South Carolina and Kentucky a few pages back).

The Minnesota Statutes (1894) §2592, provide that no corporation shall establish gas, electric light, heat, transportation, or other improvement except on obtaining a franchise from the city or village council, and making just compensation, and at the end of each and every franchise period of five years the council may, on a two-thirds vote of the electors of the city or village, buy at eminent domain value and own and operate the gas, electric light, street railway, water, telephone, heat or power works. That is something worth having in the way of local self government. Take out the five year limitation, extend the referendum to the granting of franchises, add the initiative on a 5 per cent. petition, authorize cities to build at the start, and put the whole thing in the constitution, beyond the reach of legislative interference, and municipal freedom and sovereignty would be established in respect to the most important local services of a monopolistic character.

In Kansas, by the laws of '97, any municipality may grant gas, electric light, water, heat or power privileges for a term not exceeding 20 years, and it may be terminated in 10 years. Forty days notice of application for a franchise or renewal must be published, and the municipality must reserve rents for the use of streets. Provision is made for filing items of construction cost, income and outgo by the companies, the items to be open to public inspection. In 1st class cities (those of more than 15,000 inhabitants) the mayor and council may

grant rights of way for telegraphs, telephones and electric light works; may grant street rights for laying gas, water and steam pipes and conduits for electric light wires; provide for and regulate and grant railroad and street railway rights in streets, but cannot give an exclusive right; and may grant permits to mine coal. No city of more than 40,000 people can grant street railway rights without the assent of a majority of the persons owning property on the line.

Tennessee requires local consent for water, gas, and street railways and provides that all municipalities may grant privileges in the streets. Florida requires local consent for telegraph and telephone; authorizes cities and towns to grant water, gas and electric light privileges; and provides that franchises to use the streets for a public use shall be granted only by the mayor and council. Utah requires local consent for street railways, telegraphs and telephones, and provides that city councils may grant franchises for water, gas, electric light, street railways and wires in streets, and may permit or prohibit railroad tracks. In Wyoming, the constitution makes local consent necessary for street railways, telegraph, telephone and electric light, and by statute local consent is required for gas, and any city or town may grant gas, or electric light privileges, and street railway franchises are not to exceed 10 years on reasonable conditions. In addition to the sweeping power of grant stated on p. 444, the Iowa statutes provide that a city or town may authorize or *forbid* street railway or any railroad construction in the streets. In Missouri also, besides the constitutional necessity of local consent for street railways, and the broad statute requiring cities, towns and villages to sell water, gas, electric light and transit franchises to the highest bidder, there is a statute relating to cities of the 3d class (3,000 to 30,000) which provides that the council shall have exclusive power to grant street railway franchises with the assent of property holders along the route. Rhode Island provides that a city or town may grant "rights and franchises in, over or under highways," for water, gas, electric light, heat or power, street railways, and telephones. The franchise granted may be exclusive for a term not exceed-



ing 25 years. With the exception of California and Missouri, the great states containing the giant cities have not taken a very advanced position in respect to municipal control of franchises. The Constitution of New York, Art. 3, §18, makes consent of the local authorities necessary to the construction or operation of a street railway in a city or town. The consent of the owners of at least half the property (that is, half in value) abutting on the route is also required, or else the assent of three commissioners appointed by the Appellate Division of the Supreme Court, which assent, when confirmed by the court, will answer instead of the consent of the property owners, but nothing will take the place of the consent of the local authorities. Under this constitution, the right to construct and operate a road in the streets of a municipality can only be obtained from the local authorities and on such terms as they choose to impose. (*People v. O'Brien*, 111 N.Y., 1.) The legislature can authorize and regulate the organization of street railway companies, but only the city or town can give those companies the right to build and operate in their streets. This is a little bit of real sovereignty. By statute, the consent of the owners of *two-thirds* of the abutting property is necessary to constitute owners' assent to a street railway in a *town*, owners of *half* value will do in a city. (1896 vol. I, p. 777.) A gas or electric company must get municipal consent to use the streets.

The Illinois constitution requires local consent for street railways. By statute, local consent is necessary also for telegraph and telephone wires and railroad tracks. No road can be built except by permission of the council or trustees on petition of the property owners on the route. No city council or president and trustees of a village or incorporated town can grant a franchise or right to lay gas pipes or wires for electric light except on petition of land owners representing more than half the frontage on the streets, alleys, etc., to be used. (Laws of 1897, p. 100. See also Rev. Stats., 1895 and 1898.)

In Pennsylvania, local consent is necessary for street railways, gas, electric light, heat and power and for telegraph poles and wires.

In Massachusetts, the aldermen of a city and selectmen of a town may, after a hearing, grant or refuse locations for street railways. Local consent is also necessary for gas and electric light. In the case of telegraph and telephone companies with state franchises the local authorities may *designate* (but cannot refuse) locations for posts, etc., and may make reasonable regulations subject to appeal to state courts. Aside from this, the selectmen of a town may grant telegraph and telephone franchises to individuals or companies and control them entirely. (Pub. Stat. c. 27, §§45, 48.) §45 reads as follows:

“The selectmen, upon such terms and conditions as they may prescribe, and subject to the provisions of chapter 109, as far as applicable, may authorize any person to construct a line of electric telegraph for private use upon and along the public ways of the town. Upon the erection of such line, the posts and structures thereof within such ways shall become the property of the town, and the selectmen may regulate and control the same, and may at any time require alterations to be made by the parties using the same in the location or erection thereof, and may order the removal thereof, having first given such parties notice and an opportunity to be heard. The town may at any time attach wires for its own use to such posts and structures and the selectmen may permit other persons to attach wires for their private use thereto or to posts and structures established by the town, and may prescribe such terms and conditions therefor as they deem reasonable.”

A similar law exists in Vermont.

Note the clause making the telegraph posts and structures municipal property immediately upon erection. Why should not the same principle be applied to every local service that builds its works in the streets? Allow a reasonable franchise term, but put the title to the property in the municipality either at the start or at the expiration of the franchise period, without further compensation than that involved in the franchise grant for the said term.

A great deal more space could be devoted to these matters, but we will content ourselves with the following summary in tabular form, which shows at a glance the principal provisions relating to local consent and powers of grant.

TABLE III.

	St. Ry.	Gas	Elec. l.	Teleg.	Teleph.	Water.	Rds.	Heat	Power
Me.....	l. c. a.	l. c.	l. c.				l. c.		
N. H.....	l. c.	l. c.	{ l. c. g.	l. c. a. g.	l. c. a. g.	l. c.			
Vt.....	l. c. a.		l. c.	{ l. c. g. d.	l. c. g. d.				
Mass.....	l. c.	l. c.	l. c.	g. d.	g. d.				
R. I.....	g.	g.	g.		g.	g.		g.	g.
Conn.....	l. c.	{	l. c. o. a.	l. c. o. a.	l. c. o. a.				
N. Y. ....	{ l. c. C. l. c. o. g. b.	l. c.	l. c.						
N. J.....	l. c.	l. c.		l. c.	l. c.	{	g. exc. 1st cl.		
Pa.....	l. c.	l. c.	l. c.	l. c.				l. c.	l. c.
Del.....						l. c.			
Md.....						l. c.			
W. Va.....	l. c. C.	{ l. c. g.	l. c.			l. c.			
Ohio.....	g. b.	{ l. c. g.	l. c.	l. c.	l. c.	l. c.			
Ind.....	{ l. c. g.	g.	g.	g.	g.				
Ill.....	{ l. c. C. L Rds l. c. & o.	l. c. g. o.	g. o.	l. c.	l. c.		g. l. c. l. l. c. & o.		
Mich.....	l. c.	{ l. c. g.	l. c.			l. c.			
Wisc.....	{ g. b. l. c.	g. b. R.	g. R.		g. b.	g. R.			
Minn.....	{ g. l. c. C.	g.	g.	g.	l. c.	l. c.	l. c.	l. c.	l. c.
Mo.....	{ g. b. o.	g. b.	g. b.			g. b.	g.	g.	g.
Iowa.....	{ l. c. g. R.	g. R.	g. R.	g. R.	g. R.	g. R.			g. R.
Kans.....	{ l. c. g. 1st cl. o. 40,000	l. c. g.	l. c. g.	g. 1st cl.	g. 1st cl.	l. c. g.	g.	g.	g.
Neb.....	l. c. C.	{				g.			
S. Dak.....	l. c. C.	{ l. c. g.	l. c.	l. c. C.	l. c. C.				
N. Dak.....	{ l. c. g. o.	l. c.	l. c.	l. c.	l. c.				
Va.....	l. c.	l. c.		l. c.	l. c.				
N. Car.....		l. c.	l. c.						
S. Car.....	l. c. C.	l. c. C.	l. c. C.	l. c. C.	l. c. C.	l. c. C.			
Ga.....	l. c. C.	{				g.			
Fla.....		g.	g.	l. c.	l. c.	g.			
Ala.....	l. c. C.					g.			
Miss.....		g.	g.	g.	g.	g.			
La.....									
Texas.....	l. c.	{ l. c. g.	g.			l. c.	l. c.		
Ark.....	g.	g.				g.			
Tenn.....	{ l. c. g.	l. c.				l. c.			
Ky.....	{ l. c. C. g.	l. c. C.	l. c. C.	l. c. C.	l. c. C.	l. c. C.	g.	l. c. C.	g.
Mont.....	{ g. l. c. C.	l. c.	l. c.	l. c.	l. c.	g.	g.	g.	
Idaho.....	{ l. c. g.	g. R.	l. c.	l. c.	l. c.	l. c.	l. c.		
Colo.....	l. c. C.	{ l. c. g. R.	g. R.			g. R.			
Utah.....	{ l. c. g.	g.	g.	g.	g.		l. c.		
Nev.....		g.				g.			
Wyo.....	{ l. c. C. g.	l. c.	l. c. C.	l. c. C.	l. c. C.	g. 1st cl.			
Ore.....	g.	g.	g.	g.	g.	g.			
Wash.....	l. c.	g.	g. l. c.	g. (3d cl.)	g. (3d cl.)	g.		g.	
Cal.....	{ l. c. g. b.	g. b.	g. b.		g. b.	l. c. g. b.	l. c.		g. b.

See explanation on next page. Dots are run across blank spaces to carry the eye where there is any further entry on the same line.

In this table l. c. means local consent, l. c. o. or o. alone means consent of owners of property along the line of railway, etc.

d, means right to designate locations,

a, means appeal to court or commissioners,

g, means local power to grant,

g. b. means sale or grant to highest bidder.

R, means referendum necessary,

L, means elevated road,

C, means by constitutional provision.

A power of grant, if exclusive, is of course equivalent to requiring local consent, altho the laws of the state may contain no specific provision as to local consent.

Municipalities that have been given control of their streets may grant street railway and other rights in them. (Thompson's Law of Electricity, §26.)

The legislative tendency to scatter provisions relating to a given topic thruout big volumes of statutes, putting some in solitary confinement in secluded spots, and tucking others cosily under the wings of statutes apparently belonging to an entirely different species, together with the very imperfect indexing that characterizes many of our statute books, has made it very difficult for the writer and his assistants to be absolutely sure that all the provisions relating to local consent for street franchises, etc., have been captured. If any reader notes an omission and will send to the author or publisher a reference to the omitted statute, the favor will be deeply appreciated.

A municipal right arising from statute may, of course, at any time, be altered or repealed. Theoretically, therefore, no number of such rights can constitute any real municipal sovereignty or assured power of self government, such as state and nation enjoy in respect to their particular affairs, and such as cities and towns should enjoy in respect to their local business concerns. The practical fact accords with the theory to a considerable extent. New laws and old ones not much used are easily changed if corporate interests require it. It is not necessary to repeal. A little insignificant looking amendment that may pass without attracting any general attention can take the life all out of a law. When, however, a law conferring important privileges has grown into the life of the people and has come to be regarded as part of their natural rights, it is apt to be so jealously guarded that it takes on something of the stability of a constitutional provision, tho it cannot attain quite the same vigor and certainty until we have the ref-

erendum, for the legislature *can* act counter to the people's interest and wish if the motive be sufficient, no matter how powerful the protest may be.

The statutes contain many laws affecting municipal rights which fall outside the scope of Table II. Some of these are very interesting. For example, the Montana laws of 1897 provide that cities and towns may establish free employment offices, regulate and prohibit the wearing of hats and bonnets at theatres or public places of amusement, provide for planting trees, etc. In Maine, any town may raise money to propagate fish, and I am told that a number of towns have "from ancient times" municipalized the catching of a variety of shad. Cities may buy and keep hay scales. This privilege is accorded municipalities by general law in a number of states. Also the right to establish standard weights and measures. By the Vermont statutes of 1896, any city or incorporated town can vote money for free musical entertainments, and in New Hampshire any city or town may provide coasting and skating places. Pretty soon we may have general laws empowering cities and towns to purchase bicycle pumps and fasten one to every mail-box post, or fix them at other convenient intervals, and provide free lunches for bicycle parties on condition that the women do not wear skirts less than  $2\frac{1}{2}$  feet in length; but what we really want is municipal freedom in the full sense, by constitutional enactment granting the initiative and referendum, and not statutes granting privileges in comparatively trivial affairs.

#### THE AWKWARD SQUAD AND THE HONOR LIST.

Considering the whole range of legislative and constitutional provisions in favor of municipal liberty,

#### DELAWARE AND MARYLAND

Take their places at the tail of the class. They seem strongly inclined to shirk general legislation favorable to municipal rights. They are almost total abstainers from the performance of their duties in this regard.



Virginia, North Carolina, Alabama, Arkansas and Nevada are only a little further advanced, and

#### THE NEW ENGLAND GROUP

as a whole has not very much to be proud of. Neither has New York, and Louisiana would surely have a place at the end of the procession were it not for the law of 1896 in relation to home made charters.

Turning to the head of the column, let us note the states in the front ranks of progress toward municipal liberty. Considering the volume and value and the universality of the rights accorded to municipalities, and taking into account the attitude of the courts on common law principles, the use of constitutional safeguards, and the initiative and referendum, we may perhaps be justified in placing on the roll of honor the names of the following states:

MINNESOTA, CALIFORNIA, WASHINGTON, MISSOURI,  
SOUTH CAROLINA, KENTUCKY, WISCONSIN, MICHIGAN,  
INDIANA, IOWA, KANSAS, NEBRASKA, COLORADO AND UTAH.

But even in the best states the law is very imperfect. Fragmentary legislation, unconscionable repetition and miserable indexing characterize the bulk of our statutes, and make the study of statute law a soul-exasperating business. Massive enactments loaded with ponderous verbosity and repeated almost or quite verbatim at intervals thru the statutes under each division of municipalities and perhaps various other heads, together with shreds of legislation touching the same topics, scattered thru thousands of pages, tied up with other bundles with which they may be related in some way, nestling in some proviso, or paragraph, or section of a big chapter whose heading may not lead you to examine it for the subject you have in hand and whose molecular constitution is not correctly and completely registered in the index—these things and ambiguous wordings, conflicting decisions and multitudinous divergences in the laws and customs and charters of the various states make it almost impossible to ascertain what the law is. And then the terrible waste of time and space and printer's ink. Rhode Island is not very large, but her legislative acts,

resolutions and reports come out each year in a volume as big as a young dictionary. The Massachusetts Public Statutes, compiled in 1882 make a big-paged book of 1,400 pages; the supplement to these Public Statutes for 1882 to 1888 is a volume of 1,500 pages; the supplement for 1889 to 1895 is an enormous volume of 1,700 pages;—three big volumes with 4,600 oceanic pages. In addition to all this the legislature is manufacturing a fat blue book every year—and every one is conclusively presumed to know the law. The contrast between the efficiency of our watch factories, water works, fire departments, post office and navy, and the inefficiency of our legislative factories is awful. We have already spoken (p. 402) of New Jersey's delicate creations in the statute line, occupying over 4,000 pages and five million words. The city acts alone fill 360 big pages with the customary repetitions as to elections, corporate powers, duties of officers, etc. Besides all this, there are 40 big pages on towns, and then we have 30 blanket pages on oysters and clams, which are not more indigestible than these statutes, altho the legislature does not put that conclusion in the book.

One is tempted to say: "Throw the statutes away and begin all over and make the law simple and concise so that any one can find it and understand it when he finds it." For all local services and franchises involving the use of streets, let us have one little paragraph according full powers of construction, purchase, maintenance and operation of works and systems, to supply the municipality (city, town or village) and its inhabitants with water, gas, electric or other light, heat, power, street railways or other transit facilities, telegraph, telephone, telelectroscope or any other local service requiring a special use of the streets or rights of way, and conferring exclusive powers of grant and control upon municipalities in respect to such franchises and services. A few such clauses carefully worded would cover the whole field of distinctively municipal business, including markets, ferries, wharves, harbors, parks, baths, lodging houses, etc. Add a clause conferring the right to do *anything* not forbidden by valid law of state or nation. Put all these clauses in one small section of the constitution,

with another section providing for the initiative and referendum and recall, another for the merit system of civil service, and another for proportional representation—including the women—then give municipalities, subject to these provisions, the right to make their own charters (on legislative approval as to portions that go beyond the said provisions), and you have municipal liberty and a simplified law, so far as it is possible to get them in a state which by necessity places the final appeal upon the law's interpretation in a supreme court, a condition which might at times weaken, but on the whole would be far more apt to strengthen the proposed constitutional guaranties. If, after our states have done some thinking on these lines, they will join in a great convention that may lead to the adoption of simple uniform provisions on these and other fundamental questions, the future will be filled with the hope that legislation may some day become a science.

#### CONCLUSIONS.

In going over the laws and constitutions of these forty-five states from early times to the present year, a few conclusions of special breadth and moment have forced themselves upon my attention:

First: There is a powerful trend toward careful definition, regulation and limitation of legislative power.

Second: There has been in recent years a tremendous and ever accelerating movement toward legislation favorable to public ownership and operation of local utilities, particularly those that involve any special or privileged use of the streets.

Third: There has been an equally emphatic movement toward a fuller recognition of the principle of local consent, and the right of the people to be consulted about important measures and vote directly upon them, and the correlative right to initiate legislation if they so desire.

Fourth: The local right to grant local franchises, elect local officers and manage local property, and the right of municipalities to frame their own charters have also received recognition.

Such are some of the principal streams that make up the

current of enactment that is moving toward municipal liberty and independence in respect to local affairs. And yet it must be admitted that no real home rule has been established beyond the reach of legislative interference unless the California amendment of 1896 has that effect.<sup>1</sup> Legislatures still have power to alter or abolish charters, and *may* practically annul even freehold charters, for, except in California, they are clearly and expressly subject, by constitutional proviso, to the general laws of the state, even in respect to purely municipal affairs. We have as yet no setting apart of a definite local field from which state legislation shall be excluded, as national legislation is excluded from state interests. Some of our states have made a splendid beginning, but the end is not yet.

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<sup>1</sup> Possibly Missouri should also be excepted, for the rule of 127 Mo. 642 may stand by its inherent justice or the weight of precedent, in spite of the fact that the reasoning on which the court based the decision, is open to serious question. (See p. 424.)

## CHAPTER IV.

### THE MERIT SYSTEM OF CIVIL SERVICE.

That the guide in filling public places by appointment or promotion should be merit, determined by impartial tests of fitness for the work to be done, and that tenure should be secure during good behavior and efficient service are propositions too plain to need argument except for those who regard public office as a species of private property, to be wrestled for and used for the personal advantage of the winner.

If public employees were only appointed for merit after examination and trial during a reasonable period of probation, under the supervision of an intelligent non-partisan commission; if heads of departments and superior officers in general were taken, not from outsiders, but as far as practicable out of the rank next below in the same department, and promotion depended on merit alone; if appointments were always for life or good behavior; if every appointment, promotion and discharge were subject to review in open court at the suit of an injured applicant or employee; in other words, if the public business were conducted on sound business principles, partisan politics would receive a deathblow, bosses would lose their power because their control of the offices would be gone—the temptation to manufacture a lot of needless positions, with heavy salaries and little to do, with which to reward the faithful, would vanish; party assessments would not be paid, justice, economy and efficiency would have a chance, and the people's servants would attend to the people's business instead of working to carry elections to keep their places.

The *need* of a change from the spoils system to the merit system is abundantly proved by the facts recited in preceding chapters and has been emphasized several times already in this book, but a brief discussion of the nature and results of civil service reform in a chapter of its own seems necessary to



throw the subject into the strong relief its importance demands.

The evils of the prevalent plan of treating public offices as private property or party spoils, are only too well known to every one acquainted with governmental affairs especially in our larger cities. Large numbers of men spend their lives seeking office, not for the public good, but for their private emolument. Election trickery, "political pull," party organization, ring-building, gang-construction, and the formation of personal constituencies of every sort, occupy their minds to the exclusion of the public good. These men who make a business of capturing and keeping the offices, acquire a knowledge of political methods and possibilities, and possess a degree of unscrupulousness, that give them a great advantage over the ordinary citizen with the average conscience and the average knowledge of politics. They gather about them masses of personal adherents who will vote for them regardless of the issues at stake. They pack primaries and conventions; spend money freely and promise fat offices to their constituents. When they win power, they reward their most active supporters with lucrative positions or boodle contracts. If the salaries are too low, they have them raised. If the offices are too few, they create new ones. Their appointees are not selected because they are fitted to do the work well, but because they can be depended on to help re-elect the appointer and his party or clique. They are not expected to serve the public but their official creators. Such men and methods are happily by no means in universal control even in our most imperfect cities, but wherever they have gained the mastery, inefficiency and extravagance have been the results. It has been estimated that in the various city departments where these methods have prevailed in New York, Philadelphia, Chicago and other cities, the public has had to pay from 10 to 200 per cent more than the service rendered would have cost if the work had been done by a reasonable quota of men well fitted for it and devoting themselves to the public business instead of party or personal politics.

Great as are the financial evils of private officialism, however, they are insignificant compared to the political and moral evils. The making of politics attractive and lucrative to some of the worst elements in society; the control of large masses of public business by the unscrupulous instead of the conscientious; the disgust of good men with political affairs which often seem to them to be controlled by evil forces beyond their reach; the debasement of government and lowering of the ideals of youth; are of infinitely more consequence than the money loss, great as it doubtless is. To banish these evils is of vital importance, but by no means easy, because the great political organizations are largely based in fact upon the spoils idea, and, whatever they say in their platforms, they are apt to resist its destruction in practice as a man resists

the destruction of that upon which his life and success depend. There is hope, however, for Chicago and San Francisco have adopted the Merit System (Chicago by 50,000 majority on a referendum vote, and San Francisco in her new charter also adopted by a referendum); the movement is growing in various states and in the national service; and it is so clearly in the interests of the people as a whole that it is sure to come with the growth of civic enlightenment and political common sense. The growth of public ownership will force civil service reform. And direct legislation, by weakening partisanship and putting the power of reform directly in the hands of the people, will hasten the movement.

The Merit System in its turn will help to abolish partisanship. So long as large numbers of men hold office for a settled term, those in office will organize to carry the next election so as to keep their offices, and those who wish to be in office but are not, will organize to carry the election to get their innings. The ins and the outs use every possible argument and persuasion to win voters to their side in the contest, and political parties and campaigns degenerate into squabbles of two sets of office-seekers. Nothing would do more to rid our cities and states of the wastes and demoralizations of partisan politics than the *abolition of the term system*.

Civil service reform means simply that appointments and promotions shall be governed by merit instead of political influence, party fealty, relationship or personal interest of the appointing officer, and that offices shall be held during good behavior and efficiency instead of being held for a set term or at the whim of a superior.

The economic value of such a change is a matter of record. In the Brooklyn Navy Yard according to the statement of Commandant Erwin, the cost of building warships was reduced 25 per cent by the civil service rules the first year they went into effect (1891). In a single department at Washington (the office of the Commissioner of Immigration), \$76,526 a year were saved by the abolition of useless positions when the civil service rules were applied.<sup>1</sup> Department heads say that it takes a new clerk 6 months to attain the efficiency of an old employe, and for the last 6 months of his term, the spoils system officeholder devotes his thought and his energy largely to politics to the serious injury of the business of his office.

The subjection of large numbers of employes to dismissal at the arbitrary will of a public officer is even more objectionable than the term system. It is simple common sense and justice that merit should determine appointments and promotions, and that

<sup>1</sup> Hon. Carroll D. Wright, who had charge of the last Census Bureau, estimates that \$2,000,000 and more than a year's time would have been saved if the Census force had been brought into the classified service. He adds: "I do not hesitate to say that one-third of the amount expended under my administration was absolutely wasted, and wasted principally on account of the fact that the office was not under Civil Service rules."

employees should not be dismissed except for cause. Merit should be ascertained by impartial methods, and employees dismissed for alleged cause should have a right of appeal to the courts that the cause may be judicially ascertained. Aside from the economic waste of needless changes among the employees, it is unjust to deprive an honest, efficient worker of the position and opportunity on which he and his family depend for their daily bread,—quite as unjust as to take from him arbitrarily any other right, property or possession of equivalent value to him.

Some points are well put in a leaflet issued by the Civil Service Association and the Good Government League of Phila., as follows:

Under the Spoils System the Head of a Department instead of being free to exercise his own judgment, is practically forced to select those who have the most political influence, and to pay but little if any regard to their ability or fitness. Under the Merit System the appointing officer is not only enabled but obliged to select for appointment or promotion those who will give the public the best obtainable service. Under the Spoils System each appointment makes more enemies than friends. Under the Merit System no unsuccessful applicant can complain of anything but his own deficiencies. Under the Spoils System the offices are almost monopolized by men of small capacity and few scruples, and the most desirable class of employees are unwilling to apply. Under the Merit System the examinations are open to every citizen, and the best are eager to compete because their employment, retention and promotion are made to depend solely upon their merit and fitness, and because the work is honorable, the pay is certain, and the opportunities for advancement are many. The Public should always be able to secure the most desirable applicants, but the plan of selecting employees for any other reasons than merit and fitness for the duties to be performed, is ruinous to any business, and there is no reason why the public interests should be subjected to a system which is so utterly absurd and unbusinesslike, and so prolific in all kinds of corruption and bad government.

The Spoils System converts the offices which the people pay for into bribes and rewards for the use of corrupt and demoralizing methods by unscrupulous men. Under the Merit System the public offices can only be secured or retained by superior efficiency and proved integrity.

Under the Spoils System elected officials must devote themselves to the peddling of offices and the division of patronage. Under the Merit System they can give their time and energies to the legislative or executive duties for which they have been chosen and by which they can best serve and secure the gratitude and esteem of their constituents.

Under the Spoils System a public employee is the political servant or henchman of those who have secured his appointment. Under the Merit System he is an American freeman, and can be honest and faithful to his public duties without fear of punishment or dismissal.

The most difficult question is that of method. Competitive examinations under the supervision of non-partisan commissioners, probationary service, promotion on the basis of ability and devotion as manifested by quality and quantity of service, and the right of appeal to judicial decision in case of unjust discharge, appear to be the most important points.

The government of Massachusetts, the Federal Government and some of our cities have made considerable progress in the right direction, but there are still large classes of public employes who have not been brought within the Merit System, and the regulations are by no means perfect, especially in respect to promotion right of appeal, retirement, pensions and relief.

Aside from the Federal navy yards, perhaps the most effective rules are those adopted in Chicago, and in the new charter of San Francisco (see Chap. III, p. 420). The Detroit electric plant is a good example of the results of adhering to the Merit System and excluding the spoils system (see chap. I, sec. XVII). The reader who wishes to go more deeply into this subject should send for the reports of the state and national commissioners, get copies of the various laws enacted and proposed, write to the men who are devoting themselves specially to the movement, gather the pamphlets and addresses issued by the civil service associations in Boston, New York, Philadelphia and other cities and consult the articles that appear from time to time on the subject in the leading reviews.<sup>1</sup>

<sup>1</sup> In Boston, R. H. Dana, Morefield Storey, and Edwin D. Mead are leaders in this movement, also Pres. Capen, of Tufts, in New York, Carl Schurz, and Geo. McAneny, the secretary of the association there; in Chicago, Edwin Burritt Smith and John W. Ely; and in Philadelphia, Herbert Welsh (Pres.), Henry C. Lea (V. Pres.), and R. Francis Wood (Sec.). Charles Richardson and Clinton Rogers Woodruff of the executive committee,—the last being also President of the National Municipal League, member of the Pennsylvania Legislature and author of the civil service bill introduced into the last session, which would be given here if it did not take so much room.

The student should not fail to get the reports of the U. S. Civil Service Commission on which the Hon. Theodore Roosevelt did such efficient work some years ago. He would do well to visit the Brooklyn Navy Yard or one of the other Federal yards, to talk with the men and study the workings of the system, and by all means write to the Secretary of the Navy for a copy of the Navy rules.

Civil service laws or correlated laws should not fail to provide for death benefits in case of meritorious employes, aid in case of sickness or disability and retirement on pension in case of incapacity after long and faithful service. This principle is recognized in this country and is broadly applied in England. Mayor Quincy of Boston, and his successor Mayor Hart, strongly advocate this measure for all city employes. Mayor Quincy says it is valid, simply as a business proposition, even aside from humanitarian considerations. Heads of departments do not like to discharge old employes when they become unable to do a good day's work. Superintendent Bell of the Street Department, Boston, says that 90 per cent of the workers stay on year after year in spite of changes at City Hall; 25 per cent of the force are old men, many of whom should be retired if full efficiency in the department is to be attained. If a pension bill were passed this could be done. One-half the fund for pension disability paym'ts, etc., might be raised by taxatn and the other half taken from the wages of employes—2 to 3½ per cent of wages being sufficient according to the experience of Liverpool, Birmingham and other cities. The increased efficiency of the departments would more than repay the city for its share of the paym'ts, Mayor Quincy thinks, and relief of the workers from subscriptn calls on deaths, accidents, etc., would go far toward balancing the slight detentions from wages. Our Mass. civil service law provides for the incoming of the workers but not for their outgoing. This measure would complete the civil service law. Federated labor in Boston seems to be a unit in favor of the plan.



## CHAPTER V.

### PROPORTIONAL REPRESENTATION.

The initiative and referendum will put the vital control of legislation in the hands of the people; but emergency measures will in practice be left to representatives as a rule, and many other laws will be initiated and formed, and some will be decided upon in representative bodies. Besides adopting direct legislation, therefore, it is necessary to secure proportional representation or representation of each class in the community in proportion to its size, in order that the deliberating and voting in legislative bodies upon emergency measures (and other bills that may be passed or voted down in decisions of councils and legislatures that we allowed to stand) shall be as fair a substitute as possible for the deliberating and voting that would take place if the whole community considered the question directly in a giant town meeting, or a series of small town meetings in all the wards or districts. Direct legislation presents serious or lasting misrepresentation in the final adoption or rejection of laws: proportional representation eliminates one source of error in the delegate system arising from the non-representation of considerable masses of voters under the district plan, and so is an aid in preventing serious or lasting misrepresentation in the deliberations and votings of legislative bodies whether the deliberations and votings are preliminary or final, advisory or conclusive. Direct legislation secures due weight to every class and interest in the decision of questions brought before the people at the polls; proportional representation tends to secure due weight to every class and interest in the decisions of legislative bodies, and in forming their advisory, amendatory, educative, repressive or other preliminary action in reference to questions that go to the referendum. Direct legislation and proportional representation supplement each other; each can accomplish



much without the other, but they belong together, and can do their best work only in double harness as we find them in Switzerland. Direct legislation alone leaves the advisory and emergency action of legislators and councilmen very imperfectly representative, and proportional representation alone leaves the legislators and councilmen subject to the temptations that beset them now and the errors of judgment that warp their decisions from the people's will. Of the two measures, direct legislation is, of course, vastly the more important, but every friend of democracy and good government ought to support proportional representation also, for it is a corollary from the same fundamental principles of justice and common sense that prove the case for direct legislation.

The Legislature of a State is called a representative body. If the citizens of a State were few in number and close together they would meet in person to deliberate upon public affairs and pass such laws as they deemed necessary. But when they number millions and live far apart, they cannot meet in this way, and they have to select a few persons to meet in their place and deliberate and legislate for them, just as the stockholders of a corporation choose a board of directors to manage the business for all concerned. In early times, the laws were made in the way first mentioned, and the local laws of many townships are still enacted directly by the citizens assembled in town meeting. This method is a very just and perfect one, for every citizen has a right to present his ideas to his fellow voters, and no law is passed without giving a full opportunity for hearing to those who may object to it.

When the increasing size of the State or city compels the people to resort to the representative system, they are not always careful to guard the new plan against injustice. If there are 200 Republicans, 180 Democrats and 20 populists in a certain town, the ideas and interests of the three classes will have a relative strength of two, eighteen and twenty in the town meeting. If there are 200,000 Republican voters in a certain State, and 180,000 Democratic voters and 20,000 Populists, the relative strength of the parties in the Legislature should be two, eighteen and twenty, or one, nine and ten, or some multiple of these numbers. If not, the Legislature does not truly represent the people. If, for example, the legislators are all Republicans, the Legislature clearly does not correctly represent the State, for the State is only half Republican, the other half being Democratic and Populistic. In order that any legislative body may be really representative, the relative voting strength of each class and interest in the electing community must be reproduced in that body, otherwise the deliberating and voting in the legislative body can have little chance of being a fair substi-

tute for the deliberating and voting which would take place if the said classes and interests could come together and legislate for themselves directly, as in early days.

There are two methods of electing representatives; the one is called the "District System" and the other the "Proportional System." The former divides the State, or city, or nation, into as many districts as there are representatives to be chosen, and then the people in each district elect one representative. The other plan divides the number of votes in the State, or nation, or city, by the number of representatives to be chosen, and takes the quotient as the number of ballots that will elect one representative, no matter whether the citizens casting those ballots live close together or are scattered all over the State. By this plan, if there were 400,000 voters in a State and 200 representatives, 2000 votes would elect a representative; any 2000 voters who chose to unite on the same man could elect him, whether those voters were located in a single town or district or were scattered from one end of the State to the other; 2000 Prohibitionists or Populists could elect a representative, altho there might be only a few such voters in any one part of the State. By the direct plan, on the contrary, the Prohibition Party, or People's Party, or any small party could not elect a representative unless it had a majority in some particular district.

Of course, the party in power favors the District System, because it enables it to crowd out the others. It can divide up the State so that its own voters shall have a majority in all or almost all the districts. Sometimes this is carried so far that half the citizens of the Commonwealth are practically disfranchised. For example, in Alabama (1892) 138,000 Democrats elected nine Congressmen, and 94,000 Populists and Republicans elected none. In North Carolina, 133,000 Democrats got eight Congressmen, and 145,000 Republicans and Populists only one. In Indiana, under a Democratic gerrymander, 259,000 Democratic votes elected 11 Congressmen, while 253,000 Republican votes elected only 2. At the next Congressional election (1894), 284,447 Republicans elected the whole 13 Congressmen, and 238,281 Democrats elected none. New Jersey, Massachusetts, and many other states besides those above mentioned, have used this Gerrymandering process, as it is called, from the name of the man who invented it.<sup>1</sup> In a Republican State the process

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<sup>1</sup> Continuing with 1892, 219,215 Republicans in Iowa elected 10 Congressmen, or 1 to 21,921 votes, while the whole 201,923 Democratic votes only elected 1 Congressman. In Kentucky the Democrats got 10 Congressmen with 174,360 votes, or 1 Congressman for every 17,436 votes, while the Republicans with 122,308 votes got but 1 Congressman. In Maryland 113,931 Democrats got all the 6 Congressmen, or 1 to 19,000 votes, while 91,762 Republican votes failed to secure a representative. In Maine 65,637 Republicans got all 4 Congressmen, or 1 to 16,400 votes, while 55,778 Democrats got none. In the whole election 12,032,203 votes were cast, and 5,531,965 of them had no representative in Congress. A majority of a quorum, or 26 per cent. of the members, representing 13 per cent. of the voters, can make a law, so that in a country supposed to be governed by the majority we find minority rule as an organized system, the representatives of about  $\frac{1}{4}$  of the voters being able to make laws for the other  $\frac{3}{4}$ .

General Garfield said in the House of Representatives in 1870, "In my judgment it is the weak point in the theory of representative government,

consists in ascertaining the location of Republican and Democratic voters, the strength and color of the vote in every locality, and then mapping out the districts so that there shall be a majority of Republicans in every district, or if that is not possible, at least the bulk of opposing parties can be put by itself in a few districts and the Republican force spread out over many districts, with a majority in each.

If there are 200,000 Republican voters in the State, 180,000 Democrats and 200 districts, it is clear that the Republicans can carry every district if they can arrange the districts so that there shall be about 1000 Republicans and 900 Democrats in each locality. If this is not possible, the next best move, in the politician's sense, is to mark off the localities that are almost wholly Democratic. A district with 1800 Democrats and only 100 Republicans uses up a lot of Democratic ammunition in order to hit the mark once. If there are 30 such districts the Democrats have to waste 54,000 votes in antagonizing and overcoming 3000 Republican votes, leaving the Democrats only 126,000 votes against 197,000 Republicans in the other 170 districts, so that the Republicans have an average of 1160 against 750 in the rest of the State, and can arrange the battle quite easily.

Gerrymandering politicians do not confine themselves to divisions which keep the total vote of each district at its true level. They often call a large body of the opposition a district, and a small body of their own party also a district. A Democratic town of 11,000 people may be marked off as one district and allowed to elect one representative, while a Republican region of 42,000 people will also be constituted a district, and allowed to elect one representative.\* By such methods one Democratic vote may be made to count as much as four or five or more Republican votes, and vice versa. In Iowa, with a little over half the votes, we have seen the Republicans elect all but 1 of 11 Congressmen. In

as now organized and administered, that a large part of the people are permanently disfranchised. There are about 10,000 Democratic voters in my district, and they have been voting there for the last 40 years without any more hope of having a representative on this floor, than of having one in the Commons of Great Britain."

Equal suffrage is a clear deduction from the principle of proportional representation—every class in the community of full age, good character, sound discretion and civic interest, should be represented in proportion to its size. Twenty-six states have recognized this in part by giving women the school suffrage, and four states by according them equal suffrage on the same terms as men. The development of this subject, however, lies outside the lines laid down for this book.

\* The figures given in the text are not imaginary, but are taken from the actual facts of the New Jersey Gerrymander of 1891-2, already referred to in chapter I. Judge Gaskill, of Mount Holly, who was President of the State Republican League, had large colored maps made of the Gerrymander and posted them all over the State. The tortuous lines of the district divisions, running regardless of justice or geometry, even leaping into the middle of another district to take out a dangerous town, and the enormous difference between the little Democratic districts and the large areas marked off for Republican districts startled the citizens of New Jersey when brought clearly before their eyes in maps 3 by 4 feet in size, carefully drawn and printed in brilliant colors. It was one of the best plans ever adopted for the rapid education of the voters, and it was one of the chief causes of overturning the Democratic ring, and making New Jersey a Republican State, and better, a reasonably well-governed State.

Maine, not many years ago, with 53 per cent. of the voters, they elected every Congressman. In Kentucky, the case was reversed, and the Democrats, with 56 per cent. of the votes, elected all but 1 out of 10 Congressmen—a Democrat in Kentucky weighed as much as 7 Republicans. In Iowa a Democrat weighed only one-ninth as much as a Republican, and in Maine a Democrat weighed nothing at all. It may help the eye if we vary the form of presentation by tabulating some of the facts.

## MASSACHUSETTS, 1894.

	Vote.	Repres. in Leg.		Repres. in Cong.	
		Sen.	House.	Sen.	House.
Republicans .....	189,000	36	195	2	13
Democrats .....	124,000	4	46	0	0

One Democratic State Senator to 31,000 Democratic votes, and one Republican State Senator to 5200 Republican votes. A Republican counts for six Democrats in the State Senate, and in the National Government the Democrats don't count at all. On the whole, a Republican in Massachusetts has more than ten times as much representation and influence in legislation as a Democrat. A proportional division would give the Democrats 15 State Senators, 96 State Representatives, 1 United States Senator and 5 members of the House.

## NEW YORK, 1895.

	Vote.	Repres. in Leg.		Repres. in Cong.	
		Sen.	House.	Sen.	House.
Republicans .....	600,000	35	103	0	23
Democrats .....	510,000	14	47	2	6
Prohibitionists .....	25,000	1	0	0	0
Labor Party .....	21,000				
People's Party.....	7,000				

## PENNSYLVANIA, 1895.

	Vote.	Repres. in Leg.		Repres. in Cong.	
		Sen.	House.	Sen.	House.
Republicans .....	456,000	43	174	2	27
Democrats .....	282,000	6	29	0	1

The Democrats, with more than a third of the voters, have only one-twelfth of the total representation (one-seventh in the State Senate, one-sixth in the State House, none in the United States Senate, one twenty-eighth in the United States House, equals one-twelfth of the entire representation, counting each of the four legislative bodies as an equal unit in the government).

## PENNSYLVANIA, 1896.

	Vote for Pres.	State Sen.	House.	Representation in Congress.
Republicans .....	728,300	44	171	27
Democrats .....	433,228	6	33	3
Prohibitionists .....	19,274			
Others .....	13,553			

Total..... 1,194,355

1 seat in Congress to each 39,811 votes of the total ballot.

Republicans got 1 seat in Congress to each 27,000 of their vote.  
 Democrats got 1 " " " 144,000 " "

A fair division of seats in Congress would have given the Republicans 18, instead of 27; the Democrats 11, instead of 3, and the Prohibitionists 1, instead of none.

NEW YORK, 1896-7.

	Vote for Pres.	State Sen.	Representation in	
			House.	Congress.
Republicans .....	819,838	35	114	29
Democrats .....	551,369	14	35	5
Scattering .....	50,000			

1 N. Y. Republican in Congress to each 27,000 Rep. votes in the State.  
 1 N. Y. Democrat " 100,000 Dem. votes "

With over one-third of the votes the Democrats have one-sixth of the representation or 54 of the 232 seats in Legislature and Congress. With 60 per cent of the votes the Republicans have nearly 80 per cent of the members; in the Legislature, 1 Republican member to 5,400 votes and 1 Democratic member to 11,000 votes; in Congress, 1 New York Republican to 27,000 votes and 1 Democrat to 110,000 votes.

GEORGIA, 1896-7.

	Vote for Pres.	Vote for Gov.	Representation in	
			Leg.	Congress.
Republicans .....	60,091		4	0
Democrats .....	94,232	121,049	179	11
Populists .....		96,888	36	0

With less than 60 per cent of the votes the Democrats had over 80 per cent of the legislators and 100 per cent of the Congressmen.

GEORGIA, 1898-9.

	State Vote.	State Sen.	Representation in	
			House.	Congress.
Populists .....	51,580	0	5	0
Democrats .....	118,557	43	170	11

In the State Senate the Democrats have 1 representative to each 3,000 Democratic voters, while the Populists have 51,580 votes and no representatives. As the total vote shows about 4,000 votes to each seat in the Senate, a fair apportionment would give the Populists 13 Senators and the Democrats 30. In the House the Democrats have 1 representative to 700 votes and the Populists 1 to 10,300 votes. In Congress the Georgia Democrats have 1 member to each 11,000 votes, while the Populists have no representatives to 51,580 votes.

IOWA, 1898-9.

	State Vote.	State Sen.	Representation in	
			House.	Congress.
Republicans .....	236,524	38	62	11
Fusionists .....	173,000	12	38	0

1 Ia. Republican in Congress to each 22,400 Rep. votes in the State.  
 0 Ia. Fusionist 173,000 Fusion votes "

Here the case is reversed: the Republicans have 1 representative in the National Senate and House to each 22,400 votes, while the Democrats and Populists have 173,000 and no representation in Congress.

KANSAS, 1898-9.

	State Vote.	State Sen.	Representation in	
			House.	Congress.
Republicans .....	149,853	12	90	7
Fusionists .....	133,983	28	32	1

1 Kansas Republican in Congress to each 21,000 Rep. votes in the State  
 1 Kansas Fusionist " 133,983 Fusion votes "



The State Senate was a holdover from a preceding election, but the House shows 1 Republican to about 1,600 votes and 1 Fusionist to about 4,000. And in Congress the Kansas Republicans have 1 representative to 21,000, while the Democrats and Populists have 1 to 133,983 votes.

## VIRGINIA, 1897-8.

	State Vote.	State Sen.	Representation in House.	Congress.
Democrats .....	109,655	35	95	10
Republicans .....	56,840	4	4	0
1 Va. Democrat in Congress to each 10,960 Dem. votes in the State.				
0 Va. Republican " to 56,840 Rep. votes "				

The Republicans with over one-third of the votes have less than one-sixteenth of the State representation and no representation in Congress; 34 per cent of the total vote and a trifle over 5 per cent of the seats.

## WISCONSIN, 1898-9.

	State Vote.	State Sen.	Representation in House.	Congress.
Republicans .....	173,137	31	81	10
Democrats .....	135,353	2	19	0
1 Wis. Republican in Congress to each 17,314 Rep. votes in the State.				
0 Wis. Democrat " to 135,353 Dem. votes "				

The Democrats have over 40 per cent of the votes but less than 20 per cent of the representation.

## OHIO, 1898-9.

	State Vote.	State Sen.	Representation in House.	Congress.
Democrats .....	347,074	18	47	6
Republicans .....	408,213	17	62	15

The Republicans have 1 man in Congress to each 27,000 votes, and the Democrats 1 to 57,000. A fair division would give the Democrats 10 and the Republicans 11.

## MICHIGAN, 1898-9.

	State Vote.	State Sen.	Representation in House.	Congress.
Republicans .....	210,721	26	81	12
Democrats .....	139,307	0	0	0
S. M. D. ....	30,729	6	19	0
Scattering .....	14,000			
1 Mich. Republican in Congress to each 18,000 Rep votes in the State.				
0 Mich. Democrat " to 139,300 Dem. votes "				

The Republicans with 54 per cent of the votes have all the Congressmen; 1 national representative to each 18,000 votes, and 184,000 Democratic and other votes with no representative in the National House or Senate. With proportional representation the Republicans of Michigan would have but 7 places in Congress, instead of 12.

## PENNSYLVANIA, 1898-9.

	State Vote.	State Sen.	Representation in House.	Congress.
Democrats .....	358,300	13	71	10
Republicans .....	476,206	37	127	20
Pro. & Pop. Fusionists. ....	127,804	0	6	0
1 Pa. Republican in Congress to each 23,800 Rep. votes in the State.				
1 Pa. Democrat " 35,800 Dem. votes "				
0 Pa. Fusionist " 127,800 Fusion votes "				

With less than half the votes the Republicans have two-thirds of the representation, while the Fusionists with 13 per cent of the votes have only about 2 per cent of the representation; 1 Pennsylvania Republican in Congress to each 23,300 votes, 1 Democrat to 35,800 votes, and no Fusionist to 127,800 votes.

## MASSACHUSETTS, 1898-9.

	State Vote.	State Sen.	House.	Representation In Congress.
Republicans .....	191,146	33	165	10
Democrats .....	107,760	7	65	3
1 Mass. Republican in Congress to each	19,114	Rep. votes in the State.		
1 Mass. Democrat	"	36,000	Dem. votes	"
1 Mass. Republican in the State Sen. to each	5,800	Rep. votes in the State.		
1 Mass. Democrat	"	15,400	Dem. votes	"

With over one-third of the votes the Democrats have about one-sixth of the representation in the State Senate and one-fourth of the Congressional representation; 1 Republican in the State Senate to 5,800 votes and 1 Democrat to 15,400 votes.

The trouble exists in respect to City Councils and Boards of Alderman as well as Legislatures and Congresses. In 1892, with 59 per cent of the votes, Tammany elected every one of the 30 Aldermen. Even with a minority of the votes it has been able to elect 21. In 1897, with 48 per cent of the votes, Tammany elected 86 per cent of the Borough Council of Manhattan and Bronx (New York proper).

	Vote for Mayor.	Councilmen Elected.	One Councilman to	Councilmen should have been apportioned.
Tammany .....	143,666	31	4,630 votes	17
Citizens Union .....	77,210	4	19,300 "	9
Republicans .....	55,834	1	55,834 "	7
Jeffersonian Dems. ....	13,076	0		2
Socialists .....	9,796	0		1
Scattering .....	1,357	0		0

Total vote..... 300,939

or 8,360 votes to each seat in Council.

Here the Republicans elected only 1 Councilman with 55,834 votes, while Tammany elected 1 Councilman for every 4,630 Tammany votes.

Wherever the student may be, if he will compare the composition of the vote at any election with the membership of Legislature or Council resulting from that vote, he will discover a condition of things similar to that above described. The composition of the Legislature is not like the composition of the vote. The Legislature does not represent the people, it misrepresents them—it over-represents some classes and under-represents others. The weaker parties are crowded out. New ideas have little chance. The doors of debate are closed against them. Progress is retarded. Injustice is done. Government of the people, by the people and for the people is transformed into government of the people by a class and for a class.

Several reforms are necessary to overcome the injustice and perversion of governmental functions that have followed the

change from direct government by the assembled people to representative government so called. One of these reforms is Proportional Representation, as already explained, and is the only method by which a legislative body can be made to represent truly the people who elect it.<sup>1</sup> Under this system, if there is one representative to each 2000 voters in the State, 2000 voters can unite on a man to represent their views, and can elect him. There can be no portioning off into districts, with a majority of opposing votes in every district to leave our 2000 voters in a hopeless minority in each locality, as is continually the case in every State and city to-day. Under Proportional Representation, the Republicans can have one representative for every 2000 votes they possess, and the Democrats, Populists, Prohibitionists, Social Democrats—every class and shade of interest and opinion—may also have just as many representatives as it has multiples of 2000 votes. Every class will enter into the Legislature in substantially the same proportion that it enters into society. The Legislature will become a *miniature* of the State—a *political photograph* true to the life, instead of a grievous caricature, as it is at present.

The justice of the proportional plan appeals very strongly to every honest man as soon as he knows the facts. States and cities are so big and complex that we do not stop to cipher out their operations very carefully, and this negligence of the people gives

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<sup>1</sup> For a detailed discussion of the methods by which the principle of proportional representation may be put in practice, see the book on Proportional Representation, by Professor John R. Commons, President of the National League for Securing Proportional Representation. See also Direct Legislation Record, Vol. VI., p. 47, where a detailed account is given of the actual use of proportional representation in electing the Committee on Resolutions at the Buffalo Conference. A brief description of an actual case (except as to the names by which the candidates were called) may make the method clear to those unacquainted with the system. Suppose a city council of 12 members is to be elected. Each voter writes on his ballot the names of 12 candidates in the order of his preference, or he places numbers from 1 to 12 in the order of preference, in front of the names he chooses on a printed list of candidates. Suppose 1800 votes are cast. Dividing 1800 by 12 the number to be elected we find that 150 votes will elect a councilman. The ballots are sorted into piles according to the first choice names and the piles arranged in order according to the number of votes in each pile. Treatem and Pullem and Buyem have 210, 195 and 167 votes respectively, and Popular Confidence has 300, so 60, 45, 17 and 150 votes are taken from their piles to be distributed to the other piles, each ballot being given to the first candidate in the order of preference named on it who is in need of a vote. Then we go to the foot of the twenty piles (or whatever the number of candidates voted for may be) and find 3 candidates with only 1 first choice vote each; these are declared out of the count and their ballots distributed as above. Next we find, at the bottom of the line, 2 candidates with 3 votes each, and these are declared out and their ballots distributed. Then the lowest candidate is found to have 15 votes and these are distributed. So we continue going up the list, redistributing at every step the ballots in the smallest pile until only 12 piles remain, when the candidates to whom those piles belong are declared elected.

Another plan, where there are distinctly marked parties with party tickets in the field, is to distribute the representation among the parties in proportion to the vote of each. If there are 20 councilmen to be elected and the Republicans cast one-half the votes they would have 10 seats in council to be filled by the 10 Republican candidates polling the highest votes. If the total vote were 50,000, the unit of representation, or number of votes entitled to one representative, would be 50,000 divided by 20 (the number of seats), or 2,500, and each party would have as many representatives as it has "units." If there are remainders, the odd seats go to the largest remainders (in the order of their size) till all the seats are distributed.

In its ethics and its political effects the plan of expressing first and second choice, etc., and giving the seats to the individual candidates having the requisite "unit" number of votes is far preferable to the division of representation on party lines.

the rascals their chance. If 50 men had some business they could not attend to in person, and 20 were interested to have it managed one way, and 30 wanted it another, and they agreed to choose 5 men to manage the business for them, every one would see at once that the 30 owners should elect 3 of the managers and the 20 owners the other two. But in politics the 30 would be apt to capture the entire 5. If that were done in the simple case we just put, the 20 owners, defrauded of their rights, would vigorously rebel—they would see that it was just the same as if every member of a board of arbitration was chosen by one party to the controversy; but in politics the thing is so big and misty, for lack of careful thought on our part, that we allow our rights to be trampled upon with impunity, and in Republican States, hundreds of thousands of Democrats and Populists pay taxes without representation, and vice versa in Democratic States, and never dream that they are submitting quietly to far greater injustice than that which caused their fathers to break into open rebellion in 1776. No rebellion is needed now, but only a little discussion, a little organization and a few thoughtful votes.<sup>3</sup>

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<sup>3</sup> Illinois has provided for the local submission to the people of the question of minority representation in the city council or legislative body of the city. (Ill. Rev. Stats., 1898.) A number of Swiss cantons have proportional representation in full operation (see p. 351) and Belgium has just adopted the system.

## CHAPTER VI.

### PREFERENTIAL VOTING

OR

EXECUTIVE ELECTIONS BY MAJORITIES IN PLACE OF PLURALITIES.

While we seek thru proportional representation to make our legislative bodies represent the whole people so far as possible, we should adopt the majority ballot or preferential vote (election of the candidate preferred to all others by the majority of citizens voting) for the filling of sole offices, so that our executive and administrative officers may also represent the whole people so far as possible. Under our present system of district and plurality voting, executive officers may be, and frequently are, elected by a minority of those voting at the election, and legislative bodies may represent a minority or a small majority, whereas executive officers should represent a majority, and legislative bodies should represent substantially the whole people. The latter may be accomplished by proportional representation so far as the election of persons *can* accomplish it, and the former object may be attained by *effective* or *preferential* voting. A few words will make the matter clear.

When three or more candidates stand for the mayoralty or other sole office, a plurality elects; whereby it frequently happens that the successful candidate is chosen by a minority of the citizens voting. Mayor Van Wyck elected in New York in 1897 had only a minority of the votes cast. Theodore Roosevelt was elected Governor of New York (1898) by a minority of the votes cast.<sup>1</sup> And the same was true of Governor Stone elected in Pennsylvania the same year. Here is the list of the Presidents of the United States who were elected by minorities:

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<sup>1</sup> Good men may be elected by plurality vote. The very same men who would be elected by majority vote, very likely, if the preferences of the people were fully expressed. In another class of cases the majority choice might be inferior to the plurality choice. But in a larger class of cases the majority choice would probably be superior. The man chosen by the majority would, on the average, be more likely to have the interests of the whole people at heart and be a fair representative of the whole community, than the man chosen by a minority. Whatever the result in any particular case, if we are to have government by the people we must register the choice of the majority.



Polk, 1844.  
Taylor, 1848.  
Buchanan, 1856.  
Lincoln, 1860.

Hayes, 1876.  
Garfield, 1880.  
Cleveland, 1884 and 1892.  
Harrison, 1888.

Lincoln had less than 40% of the popular vote in 1860. The details of two or three cases will show how the plurality rule works toward such results.

## Vote for President, 1892.

	Rep.	Dem.	Pop.	Pro.	Plurality.
Wisconsin .....	170,790	177,335	9,909	13,132	6,544 D
Ohio .....	405,187	404,115	14,850	26,012	1,072 R
Nebraska .....	87,213	24,943	83,134	4,902	4,079 R

Here were 23,600 Populist and Prohibition voters in Wisconsin, 40,000 in Ohio, and 88,000 in Nebraska, who were substantially disfranchised since they had no voice in deciding the vital issue between the Republican and Democratic candidates. In order to express their deepest convictions they had to throw away their votes. There is not the least necessity for this injustice, nor the smallest justification for minority rule thru executives chosen by pluralities below the majority line.

I have no complete list of Gubernatorial elections, but upon the partial lists at hand I find the following cases of

## Election of Governor by a Minority of the Votes Cast.

Illinois, 1888.  
Iowa, 1891.  
Kansas, 1882, 1890.  
Massachusetts, 1892.  
Michigan, '78, '82, '84, '90.  
Minnesota, '86, '90, '92.  
Nebraska, 1894.

Nevada, 1898.  
New York, 1898.  
North Carolina, 1896.  
Ohio, '85, '87, '89, '91.  
Pennsylvania, 1898.  
Rhode Island, '90, '91, '93.  
Tennessee, '92, '94.

In Kansas, 1890, the Governor-elect had less than 40 per cent of the votes cast. In Nebraska, 1898, the vote stood:

Rep.	Dem.	Pop.	Silver.	Plurality.
3,548	2,060	813	3,570	22 S

The Silver candidate, with only about 37 per cent of the votes cast was elected Governor on a plurality of 22, but 1,425 short of half the votes cast. One or two thousand majority might really have preferred one of the other candidates to the Silver man if the choice had been narrowed to two men, so that each voter could express himself on the real issue, or if the candidates had been grouped in couplets and every voter had stated his choice in each couplet. This in effect is what Preferential Voting accomplishes, not by actually dividing the candidates into couplets so as to pair each candidate with every other, but by asking each voter to designate his second choice as well as his first choice, thus ascertaining the *preferences* of the citizens and giving the election to the candidate who is *preferred* to the other candidate by the *majority* of the voters.

Suppose Richard Croker, Theodore Roosevelt, and Henry George are running for Mayor of New York, and the vote stands, Croker, 120,000; Roosevelt, 100,000, and George, 80,000; by the plurality rule

Croker would be elected, and yet very likely all or nearly all the George men would prefer Roosevelt to Croker, and all or nearly all the Roosevelt men would prefer George to Croker, the real majority sentiment of the community being against Croker, even to putting him third on the list instead of first, and his election being due simply to the division of his opponents and the plurality rule which practically disfranchises a large part of the citizens by preventing any expression of their wishes as to part of the issues at stake. The 80,000 George men were allowed to express themselves on the issue George *v.* Roosevelt, and on the issue, George *v.* Croker, but on the issue Croker *v.* Roosevelt they had no opportunity to state their decision,—they had no voice in determining the election as between Roosevelt and Croker. The 120,000 Croker men had nothing to say on the issue George *v.* Roosevelt. And the 100,000 Roosevelt men were disfranchised so far as the choice between Croker and George is concerned. They were allowed to express themselves on the issue Roosevelt *v.* George and on the issue Roosevelt *v.* Croker, but not on the issue George *v.* Croker.

There are three ways of overcoming the difficulty. (1) A second election may be held in which only the two candidates standing highest in the first election are voted for again. (2) Second, third, etc., elections may be held without restriction as to candidates until some one receives a majority of the votes cast. (3) Each voter in the first election may express his first choice and his second choice, and the candidate who is *preferred* above all others by the majority of voters will be elected. The first method is often used in meetings where the voters are assembled and can wait the result of the first ballot. It would be too expensive in a city or state election, and is very imperfect anyway, since the third or fourth candidate on the list of the first choice votes, may be preferred by the majority to any of the candidates preceding him on the list. The second method is used in nominating conventions, but could not be used in state or municipal elections because of the time and expense it involves. The third method, however, solves the problem for general elections. It is very simple when once understood, and is inexpensive and effective.

Suppose it were applied in the Croker, George, Roosevelt case above suggested, with the following vote:

Preferential Vote for Mayor of New York.							
A number of voters equal to write or mark as their	65,000	55,000		95,000	5,000		80,000
1st choice....	Croker,	Croker		Roosevelt,	Roosevelt		George,
2d choice..	Roosevelt,	George		George,	Croker		Roosevelt

The ballots which name Roosevelt before or to the exclusion of Croker (100,000 Roosevelt firsts and 80,000 George firsts with Roosevelt second) are counted as so many *preferences* for Roosevelt above Croker. And the ballots which name Roosevelt before or to the

exclusion of George (100,000 Roosevelt firsts and 65,000 Croker firsts with Roosevelt second) are *preferences* for Roosevelt above George. Taking each couplet or possible combination of two candidates and working out the majority preferences<sup>1</sup> we have:

175,000 voters prefer George to Croker.

180,000 voters prefer Roosevelt to Croker.

165,000 voters prefer Roosevelt to George.

Roosevelt is preferred to either of the other candidates, and is elected by 30,000 majority over George, and 60,000 majority over Croker, instead of Croker's being elected by 20,000 plurality, as would be the case under present methods. If there were four candidates instead of three, each voter should state his third choice as well as his first choice and second choice. I have found the system very simple in practice and its justice appeals to every fair mind. Those who believe in proportional representation should push for preferential voting also, for it is based on the same principle,<sup>2</sup> and accomplishes the same purpose in reference to the election of sheriffs, mayors, governors and other executive or administration officers, that is accomplished by proportional representation in respect to the election of legislative officers, or members-at-large of boards and commissions, i. e., it makes the election of officers conform to the principle of representing the *whole* people so far as possible.

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<sup>1</sup> In summing up the preferences only the results that represent majority preferences are put in the list from which the final result is deduced. For example, 120,000 ballots put Croker first, and 5,000 ballots put Roosevelt first and Croker second, so that 125,000 voters prefer Croker to George, but as this is less than a majority we do not put it in the list of effective preferences. The total vote being 300,000, and only 125,000 preferring Croker to George, we should find the remainder, 175,000, preferring George to Croker, which is the case, 80,000 placing George first, and 95,000 Roosevelt first and George second. This being a majority preference we place it in our list.

<sup>2</sup> It is the correlative also of direct legislation in respect to one of the most important uses of the referendum. Direct legislation enables the voter to express himself clearly on each measure issue, and the preferential ballot enables him to express himself distinctly on each candidate issue.

CHAPTER VII.

THE AUTOMATIC BALLOT,  
OR  
VOTING AND COUNTING BY MACHINERY.

The hopes of America cluster about the ballot box. All the great movements discussed in preceding chapters are based on the ballot. To secure the best means of recording the popular will is a matter of the utmost moment, and in this connection the recent invention of voting machines, in which the vote is automatically recorded beyond the reach or knowledge of tampering officials or unscrupulous politicians, offers an improvement worthy the careful attention of all honest and progressive citizens, particularly municipal officers entrusted with the execution of the ballot laws, state legislators who make those laws, and others specially related to the conduct of elections.

A secret ballot is very essential to honest and independent voting. It prevents the briber from knowing whether or no the purchased voter does as he was bidden. The employer cannot tell how his workmen vote, and so their positions are safe. It was thought that the Australian ballot would meet this want, and to a considerable extent it does. It is, however, by no means fraud-proof. Scheming men have found a way to make it their ally, instead of their foe. They obtain a *blank ballot* from a corruptible officer, or one of the ring, when he goes in to vote, puts the ballot in his pocket, and votes something else. Then they mark the ballot, and give it to No. 1 purchased voter; he conceals it, goes into the booth, puts the blank that is given him into his pocket, votes the marked ballot, and returns with the blank, as the condition of getting his vote money; this blank is marked for the next purchased vote, and so on all day.

There is a method, however, which overcomes this and several other defects of the present system—I mean the ballot by electricity, or by automatic voting machines, which have been tried in a number of places with splendid success. The voter goes alone into a closed booth; the names of the candidates are on the wall, the ticket of each party being on a special color, so that a voter can tell the candidates, even if he cannot read their names. After the name of each candidate is a button, which, if pushed, records one vote for that candidate, and locks itself, and all the buttons

of other candidates for the same office. When the voter comes out of the exit door, the entrance door and all the buttons are released, and the booth is ready for the next voter. The votes are counted by electric machinery, and as soon as the polls are closed the unbiased electric count, protected from tampering hands by netted wire, is disclosed to the public.

This system puts an absolute stop to ballot stuffing and box stealing and false counting. It checkmates bribery by its perfect secrecy—no marked ballot, no going into the booth with a voter, no telling whether the voter did as he agreed to or not—he may have taken the money and voted his own opinion after all—a very discouraging outlook for the buyer. The electric ballot is cheap after the first cost, securing a marked economy over our present methods by lessening the number of voting booths and election judges, saving in printing, etc. It is rapid and accurate, and can be adapted to preferential voting, proportional representation and the referendum. It does not prevent repeating, however, nor the nomination of bad men, nor will it pull the apathetic citizens of the wealthy districts to their duty at the polls. Increased weight of public business, thorough civic education, lively good-government clubs and nominations by direct referendum vote of the people are the medicines needed to cure those diseases. The ballot machine will not do everything, but it has nevertheless a most useful part to perform in the purification and simplification of elections.

Several states have already authorized the use of automatic ballot machines.

Massachusetts, Chap. 465, Laws of 1893; Chap. 498, 1896.  
 New York, c. 764, 1894; c. 73, 1895; c. 168 and c. 340, 1898; c. 466, 1899.  
 Connecticut, c. 263 and c. 335, 1895. (See also p. 712, Laws of 1895.)  
 Michigan, c. 97, Compiled Laws 1897.  
 Indiana, c. 155, 1899. (See also Chap. 151, 1895.)  
 Minnesota, c. 315, 1899.  
 Nebraska, c. 28, 1899. (Action by authorities or on 10 per cent. initiative.)  
 Ohio, p. 277, 1899. (Referendum adoption of machines necessary.)

The Massachusetts laws authorize the use of the "McTammany" voting machine.<sup>1</sup> Connecticut has authorized "Myers" and "McTammany." The other states named permit the use of any reliable voting machine. The most important test yet made of voting by machinery, so far as I know, was the one which occurred at Rochester, N. Y., Nov. 8, 1898. The experiment was a great success, and established beyond doubt the perfect practicability, and immense utility of the automatic ballot.<sup>2</sup>

<sup>1</sup> The Massachusetts law of 1896 provided for the purchase by the State of McTammany machines to be supplied to cities and towns by the Secretary of the Commonwealth, on request of the board of aldermen or selectmen. From the Secretary's office I learn that the McTammany machines were tried in Worcester, but did not prove satisfactory.

The first law in Massachusetts only authorized the use of the automatic ballot for the election of town officers. The later law included all officers. And the Connecticut law includes all public officers and all propositions to be voted upon. This is much the better form as it makes the law broad enough to cover the use of the automatic ballot for referendum voting.

<sup>2</sup> At the elections in Rochester, 73 "Standard" voting machines were used. The "Standard" operates even more simply and conveniently than the machine described in the text. Levers or handles are used instead of electric buttons and the votes are not recorded or fixed until the voter's exit, so that changes may be made and mistakes rectified up to the moment of leaving the booth. The citizen who wishes to vote "straight" can vote his whole ticket



by moving a single lever. Or he may vote for individuals here or there on two or more of the tickets by moving the handles opposite the names of the candidates he selects. Arrangements are also made for voting for persons not named on any of the tickets, a column of openings being provided each covered by a steel slide, which, when pushed back, locks the corresponding office line, and permits the voter to write the name of any person he chooses on a roll of paper.

The New York State Commission on Voting Machines (consisting of P. F. Dodge, President of the Mergenthaler Linotype Co., Robert H. Thurston, Professor of Mechanical Engineering, Cornell University, and H. B. Parsons, Mechanical Engineer, New York) reported January 10, 1898, that the Standard Machine was accurate and effective, safe, strong, reliable and rapid. One machine will register, under reasonable conditions, the votes of 600 voters within election hours.

Neither the writer nor the publisher have the slightest pecuniary interest in the Standard. We speak of it so fully simply because it was the machine used at Rochester in the most important test of voting machines yet made, so far as we know. In reference to the use of these machines in Rochester, Hon. Geo. E. Warner, Mayor of the city, writes:

*Mayor's Office, Rochester, N. Y., Nov. 15, 1898.*

In the light of the experience had in the recent election in Rochester, and from the unqualified approval of all the city and election officials, and the general satisfaction expressed by men of all parties, from the leaders to the humblest voter, I cannot see that anything is wanting to constitute a perfect voting machine.

It stood the test without a hitch of any character. It would seem the long-sought perfection in a voting system has at last been found, and I doubt not its adoption will become general in the very near future.

Its opponents in the city all seem to be converted, and the verdict is unanimous.

The following items from Rochester papers immediately after the election throw additional light on the subject:

*Rochester Democrat and Chronicle*.—Voting by machinery is unquestionably a vast improvement upon any of the methods heretofore employed, aside from the celerity and accuracy with which the results are made known, the ease with which the vote is registered must commend itself to every citizen.

Rochester will get out of the election much cheaper than the other cities of the State by reason of the use of the ballot machines. They will save the city about \$5,000 annually.

*Rochester Post Express*.—The Standard Voting Machine was used in the city yesterday and the result was a triumph for the new method. Returns were received so promptly that The Post Express extra issued before 7 o'clock gave the full vote of the city. The total vote in the city was known at 6 o'clock, the polls having closed but one hour before.

*Union and Advertiser*.—The Standard ballot machines worked perfectly. In no other city in the country was the result known as early as in Rochester.

*Rochester Herald*.—Messengers on bicycles carried the returns to headquarters. The first came at 5:06, just 6 minutes after the polls closed, and the last came at 5:37. The exact figures of the city vote were announced 3 hours earlier than usual. \* \*

The Rochester record of complete returns for 73 districts in 37 minutes is indeed a revelation. (If we had municipal telephones the result would be known in 10 or 15 minutes in a city like Rochester. F. P.) There were no errors in the election, no breaks in the machines, no delays in the voting, and no voters disfranchised.

In respect to the last point, it may be noted that according to the returns given by the New York Secretary of State, 122,080 defective ballots were thrown out of the election of 1897.

With the voting machines there is no such thing as a defective ballot; no throwing out of votes; no miscount, no fraudulent returns. The automatic count is there in full view of the public as soon as the voting is done. No tell-tale marks or heavy print reveals the attitude of the voter. No ballot box officials can tell how the citizen votes. The machine affords each voter an opportunity to vote in absolute secrecy; to vote rapidly, and in the most convenient way possible; to vote a straight party ticket, by operating one knob which moves all the indicators on that ticket; to vote as he may choose from candidates from any party, or for persons not named on any ticket; and to examine the ticket he has voted and make any changes he desires, until he is satisfied with his choice, before registering it and leaving the booth. The register of the total vote is in full view throuth the election so there can be no stuffing the ballot by ringing up votes before the polls are opened.

Buffalo has bought 108 Standard voting machines and will use them in November, 1899. Wm. E. Corcoran, Deputy City Clerk of Buffalo, writes that "For several years the City of Buffalo has been discussing the advisability of conducting its elections by the use of machines, but it was not until this year that the project took definite shape. After a most thorough and comprehensive examination into the merits of the different voting machines, the saving that could be accomplished by their introduction, and the accuracy with which the returns could be filed, it was finally decided to purchase 108 of the Standard voting machines. By buying these machines the number

of voting precincts in the City were cut down from 155 to 108, resulting in a saving of four inspectors of election, two poll clerks and two ballot clerks in each of the 47 election districts, and the saving of two ballot clerks in the remaining 108 districts. This, with the saving on the printing of ballots and other incidental expenses, will result in a saving to the City of Buffalo of about \$20,000. The machines cost \$55,000, and, thru an arrangement with the manufacturers, they are paid for out of the saving made, one-fourth to be paid each year; the first payment to be made in cash, interest bearing warrants being issued for the balance of the payments; these to be taken up each year from the appropriation made for election expenses. Thus, within about three years the City will own all of the machines and, at the same time, the expenses of elections will be materially reduced. After the machines are paid for there will be an annual saving of over \$20,000 in the expenses of conducting elections.

"One of the machines has been on exhibition in the office of the City Clerk for several weeks, and in that time over 3,000 people—all strangers to the machine—have operated it and studied it, some of them giving it very severe usage, but up to the present time the machine has not failed to operate properly. Every one who has examined the machine is enthusiastic over it, because of its simplicity, the freedom of the voter from losing his vote or spoiling his ballot, and the rapidity with which the returns can be filed after the close of the election."

A note from the *Typographical Journal* has just come to hand (Nov. 1899) to the effect that the voting for officers this year in Typographical Union, No. 1., was conducted on a Turner voting machine, which proved a great success. The largest vote that was ever known to be polled in the history of No. 1 was cast. The result was known five minutes after the polls closed. The machine does its own counting; makes its own tally sheets. It eliminates all possibility of fraud.

## CHAPTER VIII.

# THE BEST MEANS OF OVERCOMING POLITICAL CORRUPTION.

### THE EXPERIENCE OF ENGLAND.

In order to overcome, we must understand the nature of that which is to be overcome. In the old story of Sampson, as soon as the Philistines found out that the length of their enemy's hair was the source of his strength, they easily overcame him; and when afterward, in his blindness and captivity he succeeded in getting his arms about the pillars that supported the temple of iniquity, he brought it in ruins to the ground. We may imitate his example in respect to the temple of fraud, only I hope the people who pull it down will not be buried in the ruins.

Let us investigate the nature and causes of political corruption. In the early days, when the people met together and made the laws directly, and elected men well known to them all, to enforce those laws, and kept the strict and continuous watch of their officers that is possible in a little town, corruption was almost, or quite unknown. But when the Commonwealth grew too large for such methods, and representatives were sent to a distant city to enact the laws, and most of the officers commissioned to administer the law were not personally known to their constituents—many of them being appointed and not elected—when large enterprises were to be undertaken by the public, heavy contracts to be awarded, rich franchises to be bestowed, innumerable offices to be filled—then fraud began to grow. It would be hard to buy up the whole people to vote against their own interests, but it is easy to go to a few men away off in a legislative chamber out of the reach of the people, and buy up some of them to vote, not against their own interests, in a worldly sense, but merely against the people's interests. So corrupt legislation crept in through the gap that was made by removing legislation from the body of the citizens to a few representatives comparatively safe from popular surveillance so long as the people do not possess the power of reading the minds of their legislators, but have to be content with reading their speeches.

The increasing size of the community makes it easier also to corrupt the administration of the law. In a small town every one knows what is being done, and a hue and cry is raised at once if it bears a suspicious look. But, in a large city, or in a State, the very distances and the enormous mass and intricacy of the public business discourage and defeat the watching of it. The

president of a great corporation can take the mayor or an alderman to dinner at some puff hotel—they may have a good talk, and five or ten thousand dollars may pass, and no one know it but the two concerned. And with a few repetitions of such ceremonies it may be possible that the board of aldermen will see that the improvement of the city requires the giving of a new privilege to the great corporation. A builder of roads may have a few similar interviews in person, or through his fast friends, or paid agents, and get a fine contract for paving the streets at double the worth of the sort of work he puts in. Officers of law may make some money in other ways than taking bribes for franchises, or going shares in the unjust profits of public contracts. They may sell the appointments they control to the highest bidder, or fill the places with men who will turn over part of their revenue to the appointer, or they may levy a tax on violators of the law for immunity from arrest and prosecution, or pursue the innocent with false charges, and compel them to pay for a cessation of the annoyance.

It may happen that honest legislators are elected and honest officers appointed. The bribers, contractors and blackmailers are baffled, but only for a moment. "If the people are going to put such men as this in office, we must carry the elections ourselves, that's all." In general, the wicked do not need a blockade in order to turn their attention to the capture of the ballot box. The value of the legislative and administrative power in facilitating their business, giving them contracts, franchises, fat offices and opportunities of plunder, is too apparent to leave them long in doubt as to the advisability of combining to carry the elections in their own interests. So they cook up the nominations, capture the primaries, bribe voters, hire repeaters, stuff ballot boxes and count by an arithmetic of their own invention, of peculiar flexibility and adaptation to the needs of the case in hand. So the "ring," or gang of robbers succeeds in seating its own creatures on legislative cushions and aldermanic chairs, and the government becomes a private enterprise in which the rascals squeeze the public—a systematic scheme to transfer as large an amount as possible of the people's wealth to the coffers of the ring and its friends. If there are not enough offices to accommodate the said friends, new offices are easily made. If the salaries are not large enough, they are easily made larger. It is astonishing how easy it is to do what one wants to do when one has the absolute power of government over a wealthy people, too ignorant, or apathetic to audit the plans of their rulers.

Open your eyes and glance at a few of the pustules, carbuncles and cancers that adorn the body politic. Go to Chicago and find the board of aldermen giving away franchises worth five millions a year for personal considerations running from one or two hundreds to \$25,000 a vote. Go to Philadelphia and hear the statement of a former political boss, that only three members of the Select Council refused the \$5,000 fee offered by the Reading road when it

was struggling to overcome the opposition of the Pennsylvania road to its terminal on Market street, and remember his added remark, that he was not one of the three. Go through the South and look at the delicate system of stealing and stuffing ballot boxes, counting by poetic license, shooting objectors and reformers, etc.—look, but don't make too many remarks, or you may acquire wings prematurely. It is a crime to express your thoughts in Georgia, Mississippi and Alabama, unless they agree with the ideas of those in control, but it is a very virtuous action to whip or shoot a black man if he votes the wrong ticket, and to send in 140,000 Democratic votes from a district where there are not over 30,000 voters, all told, is not only a highly meritorious and public spirited act, but one that strongly partakes of the miraculous powers of olden times, which some skeptical people have endeavored to make us believe exist no more. Come North again, and go to Washington, and see how the Sugar Trust makes our laws; read the long records of election frauds, purchased seats, Credit Mobilier scandals, Star Route frauds, subsidy steals and railroad robberies of well toward 200 millions of acres of public land and many millions of money. Then visit Harrisburg, and find that the Pennsylvania Railroad Company knows just how to press the button to make the Pennsylvania Legislature dance any jig that suits the railroad fancy. It defies the constitution of the State, but the legislature remains in a kneeling posture, and even the Supreme Court is said by a prominent legal writer to be completely under its influence. Move on to Jersey City and investigate its records. You will imagine, at first, that you have returned to the bosom of the South. But you will note after a little that you can speak without danger of cold lead. The science of voting, however, has been cultivated almost as successfully in Jersey City as in any part of Dixie. A ward politician, in control of an assembly district, doctored the returns and put his party in power. The fashion spread, and the Abbett ring became the absolute masters of city and State. An alliance was made with the infamous gambling dens of Guttenburg and Gloucester, and as we have seen, the State was gerrymandered in the hope of securing perpetual power. Great masses of Republican voters were mapped in a single district, so as to have but one representative, while small bodies of Democratic voters were constituted separate districts, so as to give a Democratic voter more than four times the weight of a Republican; innumerable new bureaus and superfluous offices of all sorts were created for the ringsters, public expenditure and taxation rose alarmingly. In 1892, sixty-five enactments were passed providing for new and needless offices that involved the appointment of 2624 persons, and swelled the salary list of the State over a quarter of a million. The second year of Abbettism the expenditure was \$916,339 in excess of former figures—over 60 per cent addition to the State expenses—nearly a million a year transferred from the people to the ring. Jersey City suffered the most. The local government was all in the hands of the ballot stuffing ring,



and the robbery was enormous. Taxation intensified accordingly, and property declined in value in proportion. Prices of real estate fell more than 50 per cent. in two or three years. "The Bacot House," I quote from the New York Tribune of April 7, 1892, "which cost \$23,000, brought only \$8,000. The Vredenberg House, which cost \$25,000, was sold for \$8100, and the Davy Mansion, which cost \$40,000, was disposed of for \$17,000. These are only specimens; they are classed among the finest properties in the city."

At first, ballot box stuffing was a fine art, and was carefully done. Then it became a recognized profession, highly rewarded, and after a time it became so common that no art was employed; it was simply unskilled labor, and the rough hands boasted of their work in public places. Then a reaction came. The Grand Jury indicted some of them. It was proved that the voting lists contained thousands of bogus names; that locksmiths had been employed to pick the locks of ballot boxes; that numbers of small ballots had been voted inside the larger ones; that other ballots had been milled and stamped in a private machine, and voted in handfuls. Some of the stuffers were sentenced—many of the worst ones were, by some powerful influence, saved from prosecution, and even the sentenced men were carefully provided for by their warm friends and allies in power. Every one of the rogues, and the lawyers who defended them, received an appointment, and some of the sentenced stuffers were continued as officers in control of elections. But a change has come. The Coal Combine legislation of 1892 (undoubtedly bought through both Houses at heavy cost), and the infamous laws of 1893, protecting certain forms of gambling in the interests of the Gloucester race track syndicate, and the posting of the Gerrymander maps all over the State, roused the people, and they threw off the yoke of their oppressors.

Take a trip along the river to New York, and turn the pages of a few of her massive investigations and judicial records of fraud and corruption; learn from the treasurer's testimony how the New York Central spent \$200,000 a year to get legislation it wanted; and examine Jay Gould's evidence that the Erie expended more than a million in a single year to control legislation. Watch the movements of the Oil Trust, as it buys judgeships, senatorships, cabinet positions even, and bends the National Government, State Legislatures and a score of railroads to act its will. Read the fearful records of the Lexow Investigation, proving the police force to have been corrupt from top to bottom—an organized body of brigands, systematically protecting criminals and breakers of the law for the sake of robbing them of the profits of their unlawful pursuits. To the government of New York a law seemed merely an opportunity for personal aggrandisement thru the pressure it put upon some corporation or class of citizens, who could be made to yield blackmail and immunity money. True, the people have risen against the ring. But will their virtuous indignation last? I hope so, but history is not encouraging. It was not so very long

ago that this same city of New York, after being systematically robbed of tens of millions during a period of five or six years, rose in rebellion and dethroned the Tweed Ring, and then went home to let Tammany mature a new plan to capture the public pocket—a task it speedily accomplished. The people become aroused to adequate exertion only when things become utterly unendurable, and then let their public spirit go to sleep until the rogues once more surpass the bounds of possible endurance. This spasmodic, geyserlike virtue will never do—we must have a steady Niagara to wash out the filth from our public life and keep it out.

Leave the city and travel through the State about the time of election; you will find the workers of both parties busily engaged in raising funds and studying voters preparatory to buying the election. A careful record of purchasable voters is kept, with the price of each. In some parts of New York these purchasable voters outnumber the membership of either party. In many localities 20 to 35 per cent. of the voters can be and have been bought. In one township not more than 30 out of 400 votes are incorruptible; in another place not one of the 200 voters is proof against money. Sometimes 40 or 50 voters are sold in a lump by one leader. Prices ordinarily run from \$2 to \$5 a head, but in close years competition sometimes puts the figures up to \$8, \$10 or even \$20, and there is an account of a good (?) church deacon and his son who sold their votes for \$40 each to the manager of their own party, who wished to keep them from deserting to the enemy. Similar facts come to us from Vermont, Rhode Island, New Jersey, Michigan and other States. It is said that such methods prevail to a greater or less extent in all the Northern and Western States; they are not necessary in the South, for much quicker and more reliable methods have been discovered there.<sup>1</sup>

The funds for all this merchanting of citizenship are obtained by voluntary contributions and by assessments upon those who hold office, from policemen up, and upon those who wish to hold office. In New York city a candidate for mayor is assessed \$20,000, a congressional candidate the same, an alderman about \$12,000, and so on—the whole of the assessments upon candidates in an average year amounting to about \$200,000. The assessments upon office-holders, together with contributions, make \$200,000 more, and the total expenses of election in the city run up to \$700,000; in a Presidential year much more; a single candidate has been known to spend \$190,000 in one election. Millions for fraud and not one cent for justice.

Now, let us return to Boston, not with vanity in our own comparative purity, for the West End scandal, the Bay State Gas villainy, the Fisher land fraud, the Beverly Farms bribery, &c., are sufficient to remind us that we need the same medicine as our sister cities—not in elation let us come home, but in shame for

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<sup>1</sup> The facts of this paragraph and the following one are taken from Bryce on "The American Commonwealth," and from "Money in Politics," by Professor J. W. Jenks, of Cornell, in the Century, Oct., 1892, p. 940.

our country, and in stern determination to do all in our power to purify the public life of which we form a part. How can it be done?

There are two ways of overcoming an evil. We may take away the inner causes, or remove the external conditions. We may make a man sober by removing the appetite for liquor, or the weakness that leads him to yield to that appetite, or by making it impossible for him to get liquor. The internal causes of corruption are *ignorance, partisanship, selfishness and apathy*. It is our duty to do all we can to banish these primal authors of iniquity. But it is a long task of education and development to do this completely, and meanwhile a part of the work of overcoming political corruption may be directly accomplished, at the same time aiding the educational and character building processes by changing the external conditions, which fall into two classes, first, the *conditions which create or intensify the motives* to corruption, viz., the poverty of the people, the power of wealth and corporate influence, the chances of large gains by disreputable methods, &c., and second, the *conditions which afford opportunities* for corruption, viz., the separation of legislation from the people, the system of arbitrary appointments and removals, the contract system, the imperfection of our election machinery, &c. It is needful, therefore, that we should aim to educate and inform the people, develop their patriotism and public spirit, and rouse them to action; that we should seek to raise the standard of living, close the doors to degraded immigration, take public charge of the great monopolies, adopt a better system of taxation and finance, and in every possible way endeavor to aid the diffusion of wealth, in order that the power of purchase and the temptation to be bought may be diminished; that we should establish direct legislation, proportional representation and woman suffrage to close the door against legislative fraud and oppression, and secure due influence in our politics to the purest and most progressive forces in the community; that we should adopt a solid civil service reform to reduce political patronage and spoils to the lowest possible terms, and take the wind out of the sails of partisanship; that we should abolish the contract system, and put the contractors' profits into higher wages for those who do the work, or into the public treasury—what is the use of employing a board of public works simply to look after private contractors—let the board be composed of experts, and employed to look after the work directly, so as to save the contractors' profits;<sup>1</sup> that

<sup>1</sup> The Hon. Josiah Quincy, the progressive mayor of Boston, who has established a municipal printing plant, free public baths and free public lectures, has said that "The city should perform directly for itself all the work which it is practicable to so perform with reasonable economy," and again, speaking of the repairs of buildings and other municipal services, he says: "I think it would have a decidedly beneficial effect upon municipal politics to place this work upon a basis where it would no longer be competed for by a large number of contractors." The reasons are obvious.

Mayor Jones, of Toledo, in his message of October 24, 1898, advocates complete abandonment of the contract system. The document is a remarkable one. It urges the establishment of civil service reform in all departments, municipal gas and electric light plants, free employment

we separate local and national elections, so that confusion of issues may cease; enact better naturalization laws to protect the suffrage; adopt the automatic ballot; pass an efficient corrupt practices act. and organize good government clubs, that shall persuade good men to go to the primaries, make wise nominations, watch the polls, stop repeating, bring out a full vote, elect reliable officers, so far as possible, sustain them while in office and pursue to the extent of the law all officers who disregard their duty.

Some of these measures have been dealt with in this volume and others may be developed hereafter. The remainder of this chapter will be devoted to a brief description of the movement of English political history in the last hundred years. The story is condensed from the histories of Judson and Mackenzie, chiefly, and it contains some of the most momentous lessons for American statesmanship that are to be found in the history of mankind or the literature of the world.

#### I—ENGLAND IN 1789.

At the beginning of the French Revolution, England was freer than any other country of the world. She had her Magna Charta, her House of Commons and her Bill of Rights; there was no serfdom and the press was free. Still, England was very far from being either democratic or well governed. The Crown and the Peerage were hereditary, and even the House of Commons was not representative of the people.

1. The suffrage was very limited, there being a high property qualification.

2. The distribution of representatives was very faulty; some of the districts, with a small population, had large representation, and some with large population had little representation.

3. Bribery and office buying were very prevalent, which enabled the small class of wealthy landowners to control the House of Commons, so that England was ruled by a landed aristocracy.

In the 17th century Cromwell tried to make Parliament more truly representative. Toward the end of the 18th century Chatham and his great son, William Pitt, renewed the effort, *but the French Revolution drove away all ideas of reform. All political questions were set aside, driven out of mind by the rush of the war with France.*

#### II—THE REFORM BILL, 1832.

The war closed at Waterloo in 1815, and after a time attention returned to the political questions that had been under consideration before the war. Matters had grown worse in the interval. The Crown had not reapportioned the parliamentary districts since 1660. On the one hand, districts, or boroughs, had been depopulated, but retained their ancient representation in the Commons; while on the other hand, great cities, like Manchester and Leeds, had grown up without any representation. In 1831 Birmingham, with 100,000 people, had *no* representation in Parliament. Leeds and Sheffield, each with fifty thousand; Paisley, Stockport and a number of other cities with from ten to twenty thousand each,

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agencies, play grounds, public baths; kindergartens as part of the public school system, larger appropriations for public parks, for street improvements and for music in the parks, the sprinkling of the streets by the city itself and the getting out of the directory by the city itself, deprecates any grant or extension of franchises without approval of the people, and advocates municipal home rule and the popular referendum on all ordinances.



likewise had no representative. The ten southern counties, with three and one quarter million population, had 235 members, while the northern counties, with three and one-half million population, had only 66 members. Cornwall had one member to each 7500 people, while Lancashire had one member to each 100,000. Even this was not the worst; the owners of the land in depopulated districts controlled their representatives, sometimes the owner sold his seat in Parliament. The regular market price of a borough returning two members was \$50,000. Some borough owners did not sell, but used their influence. A man who owned a borough could usually command a peerage, or an embassy for himself, a pension for his wife or an appointment for his son, by placing one of the seats at the disposal of the Government.

Some boroughs not controlled by any one man were the scenes of gross bribery. The borough of Sudbury advertised itself for sale to the highest bidder. At one time the election contest in Northampton cost the candidates about \$150,000 each, and we read of as much as a million dollars being spent in a single election. It is clear that Tammany Hall was not the original discoverer of political corruption.

After the Napoleonic wars, bill after bill was introduced for reform, but the measures were stoutly opposed by the vested interests that controlled the House. The two or three hundred rich men who owned the majority of the Commons did not propose to give up their property. Lord Wellington, the prime minister, was a strong conservative; he thought the representative system just as it stood the masterpiece of human wisdom, and said, "If I had to make it over, I would make it just as it is, with all its represented ruins and all its unrepresented cities."

In 1831 the Reform Party (Whig) was successful. A reform bill was *passed by the Commons, but promptly rejected by the Lords*. In March, 1832, another bill passed the Commons; the Crown had a constitutional right\* to create new peers, and the ministry now informed the Lords that the King was ready to create enough new liberal Peers to swamp the Tory majority, so the Lords yielded, and the Reform Bill became a law in June, 1832. *It reapportioned the representation, extended the suffrage and transferred power from the wealthy and titled to the great middle classes*. The farm laborers and artisans, however, were still out in the cold.

Fifty-six rotten or decayed boroughs, where there were only a few inhabitants, were deprived of 143 members in the House, which were given to counties and cities like Manchester and Birmingham.

The franchise in counties was extended from freeholders to all who leased or rented property worth \$250 a year clear rent. The borough franchise was put on a uniform basis, including all house-owners whose houses were worth fifty dollars a year.

### III—THE REFORM PARLIAMENT.

The first Reform Parliament, elected under the Reform Act, met in January, 1833. The Radicals wished to abolish slavery, tithes, poor laws, closed corporations, corn laws, game laws, &c., pass a further reform bill and establish the ballot and free labor and municipal self-government.

What did the Liberal Parliament do?

1. It abolished slavery thruout the British Empire, to take effect August 4, 1834, the planters being paid the value of their slaves.

2. Poor laws were remodelled so as not to encourage idleness, or improvidence or depraved marriage.

3. A factory act was passed providing that children under 13 should not work more than 8 hours per day, and youths between 13 and 18 not over 69 hours per week.



## IV—THE CORN LAWS.

The corn laws of 1815 and the following years were a sort of prohibitive tariff, forbidding the importation of grain, whenever the price of domestic grain fell below a specified minimum, and fixing duties at other times. The laws were intended to protect British agriculture, but in fact the laws worked ruin to the working classes by keeping up the price of grain. In 1838 a corn law league was established, with Richard Cobden and John Bright as leaders; they flooded England with pamphlets and speeches against the corn laws, and they won. In 1846 the corn laws were repealed, and by 1852 protective duties were all gone. This movement, by education and the ballot, probably saved England from a serious revolution.

## V—THE CHARTISTS, 1838-48.

The Reform Act of 1832 gave power to the Middle Classes. The Laboring Classes were dissatisfied, of course, and began to agitate for a People's Charter, or, a more democratic constitution, that would enfranchise the masses; they wanted *universal suffrage, the ballot, equal election districts, annual election of Parliament, abolition of property qualification for members*, and salaries for members, so that poor men might take part in the House of Commons.

These purposes were for the most part good, but the Chartists were violent in their talk and methods, and this alarmed the people, so that their demands failed of success. Later, however, some of the demands were taken up by the great Liberal Party and carried to success.

## VI—THE REFORM BILL OF 1867.\*

The Reform Bill of 1867 enfranchised lodgers in the boroughs and greatly lowered the property qualification in the counties. It was passed by the Conservatives, with Disraeli at their head.

## VII.—JUDICIAL DECISION OF ELECTION DISPUTES.

*In 1868 it was enacted that election disputes should thereafter be decided in court.* They are now quietly and judiciously decided upon evidence, instead of upon party grounds, as formerly.

## VIII—GLADSTONE AND THE SECRET BALLOT.

In the first Liberal Parliament (1833) one of the Conservative members was William E. Gladstone; he did not remain a Conservative; in 1872 he was the Liberal leader and head of the Government, and he carried through a "ballot act" substantially like the Australian system. Until this time voting had been *viva voce*, which made bribery and intimidation very easy.

## IX—THE CORRUPT PRACTICES ACT, 1883.

Money and influence were still used corruptly to secure votes and appointments, and the next important measure was aimed directly at these evils. In his second ministry, Gladstone had a strong law passed against bribery, treating, undue influence, personating &c., the penalties being fine and imprisonment, at hard labor, and disfranchisement for seven years; even the taking of voters to the

polls in wagons was forbidden. A maximum was placed beyond which a candidate's expenses might not go, and a public account must be rendered of every penny spent. A corrupt practice, by or with the knowledge and assent of a candidate, will prevent him from ever holding a seat in the House of Commons. If a political agent commit a corrupt act, a candidate for whom he is working cannot take his seat if elected.<sup>1</sup> *This is the vital fact in the law—a corrupt practice in behalf of a candidate, even though unknown to him, defeats him.* Each party, therefore, watches the others with the utmost keenness to discover any violation of the law, since that is the surest means of defeating the opposition. "The risk from corruption is so great that warnings not to violate the law are put forward most prominently by all parties, and the dangers of doing so are fully explained."<sup>2</sup>

The forfeiture of elections and disqualification for office attached to corrupt practices by this English Act of 1883 have worked a revolution for purity in the politics of Great Britain.<sup>3</sup>

#### X—THE SUFFRAGE BILL, 1884.

In that same second administration, Gladstone secured a law admitting the agricultural laborers to the franchise, adding almost three million voters to the list. The qualifications in the counties and in the boroughs were made the same, namely, every householder and lodger whose holding, or use and occupation is worth \$50 a year, may vote. This is now the basis of English suffrage, not universal suffrage, but still a very wide suffrage. The law of 1884 also rearranged the election districts upon the American plan, according to population.<sup>4</sup>

<sup>1</sup> See "The British Corrupt Practices Act," by Henry James, the author of the law. *Forum*, Vol. 15, p. 129.

<sup>2</sup> *Suppression of Bribery in England*, by Prof. J. W. Jenks. *Century*, Vol. 25, pp. 781 to 789.

<sup>3</sup> We have what are called "Corrupt Practices Acts" in some of our states, but their vitality is small compared to that of the English act because they do not make *political success* depend on *political honesty* in elections. They provide for fine and imprisonment, but the campaign managers care nothing for that if they can only *win*. They do not even care to enforce the law against opponents who break it. They may find it convenient to break it themselves, and at any rate fining or imprisoning opposing agents and managers cannot retrieve the lost election. But make bribery and corruption on the part of managers or authorized election workers a *cause of forfeiture* of the offices sought to be won by such corruption, and you make success depend on purity. Each side watches the other to discover fraud or corruption and is eager to enforce the law because it will knock out the other side if a breach is shown. Let the decision rest with a non-partisan court; begin with municipal elections; decree forfeiture against all candidates in whose behalf it can be shown that fraud or intimidation was used; if no candidate with untainted ballot receives a sufficient number of votes to elect him under the rules of proportional representation and preferential voting, let the prior incumbent continue to hold the office till the next regular election unless a special election is called for by petition of 20 per cent. of the voters. It is somewhat less drastic to declare a forfeiture in England than in this country because the relations between candidates and political agents are more direct in theory at least than with us. But this very fact will be apt to give the law additional force here, and the hardship upon individuals will not be very different since candidates in both countries have to trust the selection of political workers for the most part to the party leaders.

<sup>4</sup> One of Gladstone's reforms in Ireland, tho not directly in line with the governmental movement recorded in the text, is, nevertheless, so important in itself and has such a direct bearing upon some of our own problems that a few words must be given to it in a note.

Ireland has suffered greatly from the fact that so many of those who till the soil have no ownership or interest in it, a small class of absentee landlords holding titles to a large part of Ireland, and a mass of poverty

## XI—CIVIL SERVICE REFORM.

In the early part of the century public offices in England were filled by patronage and partisanship; the spoils system was in full play, and each member of Parliament insisted on his share of the patronage. Reform, in this instance, came from the Executive, not by act of Parliament. A commission was appointed in 1853 to investigate the office holding and appointment system, and it reported in favor of appointment on *competitive examination*. In 1855 this was tried with all candidates, and the result was a great improvement in the quality of the whole service; members of Parliament were relieved from the importunities of office seekers. The House of Commons at first opposed the change, but afterward saw its value and approved it. In 1870 the commission was given power to require a competitive examination in all cases. Offices are held during good behavior, and only forty or fifty heads of departments, who are regarded as political officers, lose their places in case a new party comes into power. English politics now turn on measures rather than men, and parties are not made up of groups of men seeking to win or hold office, but they are made up of groups of men who unite because they wish to carry out a certain policy in public affairs.

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stricken tenants, unable for the most part to get more than a bare subsistence, plus the rent, out of the soil, and not always so much as that. Improvements were discouraged by the fact that if the tenant making them left his holding, or were evicted, he got nothing for them, and heartless land agents might evict a thrifty tenant for the very purpose of obtaining his improvements without compensation, and then demanding a higher rent of the next tenant on account of them. Such has been the economic situation that has constituted the basic cause of Ireland's distress—the paper titles of the descendants of a band of conquerors counted for more in the control of the land and the distribution of its products than the lives of the tenants and producers.

In 1870 the Gladstone government gave the tenant a right to demand pay for his improvements in case of his eviction, and offered to loan two-thirds of the purchase price to any tenant who would buy the land, the aim being to change Ireland into a state full of homes instead of a state full of tenements.

In 1881 Gladstone provided: First, that the tenant might sell his interest in the improvements; second, that the rent should be fixed by court, and third, that no eviction should take place except for just cause—non-payment of rent, injury to property, etc.—free sale, fair rent and fixity of tenure.

In 1885 the Gladstone government offered to loan the whole purchase price to tenants who would buy the land, repayment to be at 4 per cent. a year for 49 years. This has greatly increased purchases, and Ireland is fast becoming a land of homes, her tenant serfdom rapidly disappearing under the enlightened policy of the English government.

In Equity Series, No. 1, we saw what great benefit Pennsylvania derived from a somewhat similar policy in her colonial days. I am satisfied that a policy of this sort now would turn large masses of our unemployed and landless classes into thrifty owners, especially if instructions were given in the best methods of cultivating the soil, either on Governor Pingree's plan or in some other effective way.

Scarcely anything is of more importance than the changing of the drifting masses and the tenant classes in city and country into *home-owners*, and until the time is ripe for the common ownership and co-operative cultivation of productive land the fostering of small holdings by producing owners is hardly less important than the development of home-owning. The strong and successful means adopted by the "Grand Old Man" to accomplish these purposes in Ireland affords at once an added lustre to his name and a weighty lesson to our statesmanship.

## XII—CONCLUSIONS.

Thus, by a few peaceful measures, within the period of an ordinary lifetime, the government of England has been changed from corruption to purity, and from aristocratic despotism to a condition much closer to democracy. Historians tell us that less than a hundred years ago the English elections were the most corrupt that the world has ever seen. Now there are none purer. The secret ballot, the corrupt practices act and civil service reform have made the English government a model of honesty and efficiency. It is not yet perfect by any means, but it has made a progress unexampled in the history of the world, especially when we consider that it has been made by peaceful legislation. From an exceedingly limited suffrage, a monstrous representative system, outrageously corrupt elections and unblushing administrative abuses, England has come to an almost universal suffrage, a much fairer representation, astonishingly pure elections and an administrative system, the honesty and efficiency of which are the admiration of the world. We see in British history during the last hundred years, as in the history of every great nation in Europe, the irresistible sweep of thought and institutions toward democracy; we see an industrial revolution averted by a vigorous campaign of education, and agitation resulting in the repeal of the corn laws; we see the strong hold of partisanship destroyed and the spoils system banished; and we see corruption in elections practically abolished. If England has made such progress in a lifetime from conditions so unpromising as hers in 1830, what may not we accomplish in the next few years, starting from conditions on the whole so far superior to those of England at the beginning of her great movement toward justice and equality?

SHALL I WISH MY BROTHER TO BE MY INFERIOR  
IF I LOVE MY NEIGHBOR  
AS MYSELF  
WILL I NOT WISH HIM TO BE AS WELL OFF  
AS I AM? HOW THEN CAN  
PRIVATE MONOPOLY  
COMPORT WITH BROTHERHOOD  
OR MAKE ITS PACE WITH THE GOLDEN RULE

IT CAN NOT  
EVEN ANSWER THE QUESTIONS  
OF ENLIGHTENED SELFISHNESS, FOR IT KEEPS  
THE WORLD AND MAN FROM THE FULLER DEVELOPMENT  
AND RICHER LIFE OF AN ALL-UPLIFTING AGE  
IN WHICH CO-PARTNERSHIP SHALL BANISH MASTERSHIP  
AND MUTUAL HELP DISPLACE DEBASING CONFLICT  
AND SO DEPRIVES  
EVEN THE MONOPOLIST HIMSELF  
OF THE NOBLER LIFE HE MIGHT ENJOY  
IN A CO-OPERATIVE WORLD.

PRIVATE MONOPOLY  
IMPLY UNENLIGHTENED SELFISHNESS.



## APPENDIX I.

### LEGISLATIVE FORMS.

#### *Forms of Constitutional and Statute Provisions Relating to Direct Legislation, Freehold Charters and Public Ownership.*

The subject of Public Ownership *v.* Private Monopoly is probably better adapted to awaken the interest of the average citizen, and give him a realizing sense of the need of better government and better industrial methods than any other subject within the scope of this book. There was good reason, therefore for opening the discussion of progressive measures with "Public Ownership." But when the discussion is over and action is in order, there can be no

doubt that Direct Legislation should have the first place; it is the Initiative and Referendum that must be relied upon to make the people really sovereign; to clear away the obstructions to progress, and put in motion the machinery of the law for the vigorous accomplishment of any purpose that may be decided upon.

We therefore ask attention first to

#### Part I. Existing Laws and Constitutional Provisions.

##### DIRECT LEGISLATION.

###### *South Dakota Amendment.*

I. The Constitutional Amendment recently adopted (1898) by the people of South Dakota is as follows:

Section 1. (Amendment.) That section one of article three of the constitution of the State of South Dakota be amended so as to read as follows:

Sec. 2. (Questions submitted.) The legislative power of the State shall be vested in a legislature which shall consist of a senate and house of representatives, except that the people expressly reserve to themselves the right to propose measures, which measures the legislature shall enact and submit to a vote of the electors of the State, and also the right to require that any laws which the legislature may have enacted shall be submitted to a vote of the electors of the State before going into effect (except such laws as may be necessary for the immediate preservation of the public peace, health or safety or support of the State government and its existing public institutions).

*Provided,* That not more than 5 per centum of the qualified electors of the State shall be required to invoke either the Initiative or the Referendum.

This section shall not be construed so as to deprive the legislature, or any

member thereof of the right to propose any measure. The veto power of the executive, shall not be exercised as to measures referred to a vote of the people. This section shall apply to municipalities. The enacting clause of all laws approved by vote of the electors of the State shall be, "Be it enacted by the people of South Dakota." The legislature shall make suitable provisions for carrying into effect the provisions of this section.

Sec. 3. (Submission.) This amendment shall, if agreed to by a majority of the members elect of each house of the legislature, be submitted to a vote of the people at the next general election.

For text of the law passed to carry out this amendment, and of laws proposed in Dakota, and by the National Direct Legislation League, see Direct Legislation Record, June, 1899 and March, 1898, published by Pres. Eltweed Pomeroy, Newark, N. J.

*Comment.* The 5 per cent. limit is wise and the application of Direct Legislation to municipalities also. The latter provision might be fuller and more definite with advantage. The "enact and submit" clause is not as good as a pro-

vision that if *the legislature amends or does not pass the measure petitioned for, the Governor shall submit*, etc. The minimum time within which laws shall go into effect should be stated. And it should be specifically provided that the Initiative and Referendum may be used to amend the constitution; and that laws enacted by the people shall not be repealed or altered without submission to them.

### OREGON.

Oregon is the second state to have a Direct Legislation Amendment passed by both houses of the Legislature. It will be voted on by the people in 1902. The movement appears to be entirely non-partisan in Oregon.

#### *The Oregon Direct Legislation Amendment.*

SECTION 1. The legislative authority of the State shall be vested in a legislative assembly, consisting of a Senate and House of Representatives, but the people reserve to themselves power to propose laws and amendments to the constitution, and to enact or reject the same at the polls, independent of the legislative assembly, and also reserve power at their own option to approve or reject at the polls any act of the legislative assembly. The first power reserved by the people is the Initiative, and not more than 8 per cent. of the legal voters shall be required to propose any measure by such petition, and every such petition shall include the full text of the measure so proposed. Initiative petitions shall be filed with the Secretary of State not less than four months before the election at which they are to be voted upon. The second power is the Referendum, and it may be ordered (except as to laws necessary for the immediate preservation of the public peace, health or safety), either by petition signed by 5 per cent. of the legal voters, or by the legislative assembly as other bills are enacted. Referendum petitions shall be filed with the Secretary of State not more than 90 days after the final adjournment of the session of the legislative assembly which passed the bill on which the Referendum is demanded. The veto power of the governor shall not extend to measures referred to the people. All elections on measures referred to the people of the State shall be held at the biennial regular general elections, except when the legislative assembly shall order a special election. Any measure referred to the people shall take effect and become the law when it is approved by a majority of the votes cast thereon and not otherwise. The style of all bills shall be,

"Be It enacted by the people of the State of Oregon." This section shall not be construed to deprive any member of the legislative assembly of the right to introduce any measure. The whole number of votes cast for Justice of the Supreme Court at the regular election last preceding the filing of any petition for the Initiative or for the Referendum shall be the basis on which the number of legal voters necessary to sign such petition shall be counted. Petitions and orders for the Initiative and for the Referendum shall be filed with the Secretary of State, and in submitting the same to the people he and all other officers shall be guided by the general laws and the act submitting this amendment until legislation shall be specially provided therefor.

### UTAH.

Utah is the third State to pass (1899) a Direct Legislation Amendment, which was adopted by the people in November, 1900.

The amendment is not as definite as it should be; too much is left to Legislative provision, even the number or percentage of petitioners is not fixed, and a two-thirds vote of the Legislature excludes Direct Legislation entirely. Yet with all its defects it is much better than no Direct Legislative provision, for every Direct Legislation measure, however poor, secures important vantage ground for the obtaining of a better Direct Legislation measure.

#### *The Utah Direct Legislation Amendment.*

BE IT RESOLVED and enacted by the legislature of the Senate of Utah, two-thirds of all the members elected to each House thereof concurring therein:

Section 1. That Section 1 of Article 6 of the Constitution of the State of Utah, to be amended to read as follows:

Section 1. The legislative power of the State shall be vested:

1. In a Senate and House of Representatives which shall be designated the Legislature of the State of Utah.

2. In the people of the State of Utah, as hereinafter stated.

The legal voters or such fractional part thereof, of the State of Utah as may be provided by law, under such conditions and in such manner and within such time as may be provided by law, may initiate any desired legislation and cause the same to be submitted to the vote of the people for approval or rejection, or may require any law passed by the Legislature (except those laws passed by a two-thirds vote of the members elected to each house of the

Legislature) to be submitted to the voters of the State before such law shall take effect.

The legal voters or such fractional part thereof as may be provided by law, of any legal subdivision of the State, under such conditions and in such manner and within such time as may be provided by law, may initiate any desired legislation and cause the same to be submitted to a vote of the people of said legal subdivision for approval or rejection, or may require any law or ordinance passed by the law-making body of said legal subdivision to be submitted to the voters before such law or ordinance shall take effect.

Sec. 2. Also, that section 22, of Article 6, of the Constitution of the State of Utah be amended to read as follows:

Sec. 22. The enacting clause of every law shall be "Be it enacted by the Legislature of the State of Utah," Except such law as may be passed by the votes of the electors as provided in subdivision 2, section 1 of this article, and such laws shall begin as follows: "Be it enacted by the people of the State of Utah." No Bill or Joint Resolutions shall be passed, except with the assent of the majority of all the members elected to each house of the Legislature, and after it has been read three times. The vote upon the final passage of all bills shall be by yeas and nays; and no law shall be revised or amended by reference to its title only; but the act as revised, or section as amended, shall be re-enacted and published at length.

Sec. 3. The Secretary of State is hereby ordered to cause this proposition to be published in at least one newspaper in every county in the State where a newspaper is published, for two months immediately preceding the general election.

Sec. 4. This proposition shall be submitted to the electors of this State at the next general election for their approval or rejection. The official Ballots used at said election shall have printed thereon, "for the amendments, sections 1 and 22 of article 6 of the constitution," "against the amendment, sections 1 and 22 of article 6 of the constitution," and such designation of title as may be provided for by the law. Said ballots shall be received and said vote shall be taken, counted, canvassed and returns thereof be made in the same manner and in all respects as is provided by law in case of election of State officers.

## NEBRASKA.

In 1897 Nebraska enacted a Direct Legislation statute applying to municipalities by local option. It is over long and full of detail, requires 15 per cent., which is too high, and gives the councils the right by a two-thirds vote to alter or annul an act of the people after one year from the vote at the polls.

## SAN FRANCISCO.

The Direct Legislation sections of the New Freehold Charter of San Francisco, are as follows:

### *The Direct Legislation Sections of San Francisco's Charter.*

Section 20. Whenever there shall be presented to the Board of Election Commissioners a petition or petitions signed by fifteen per cent. of the legal voters at the last preceding general election of the city and county, equal in number to fifteen per cent. of the votes cast at the last preceding general election, asking that an ordinance to be set forth in such petition, be submitted to a vote of the qualified voters of the said city and county, it shall be the duty of the Board of Election Commissioners to submit such proposed ordinance to the vote of the qualified electors of said city and county at the next election.

The signatures to said petition need not all be appended to one paper, but each signer shall add to his signature his place of residence, giving the street and number. One of the signers of each such paper shall make oath before an officer competent to administer oaths that the statements therein made are true, and that each signature to said paper appended is the genuine signature of the person whose name purports to be thereto subscribed.

The ballots used in such election shall contain the words "For the Ordinance" (stating the nature of the ordinance) and "Against the Ordinance" (stating the nature of the ordinance).

If a majority of the votes cast upon such ordinance shall be in favor of the adoption thereof, the Board of Election Commissioners shall within a reasonable time, not exceeding thirty days, proclaim such fact, and, upon the publication of such proclamation, such ordinance, thus adopted, shall have the same and equal force and effect as an ordinance adopted and ordained by the Board of Supervisors and approved by the Mayor, and the same shall not be repealed by the Board of Supervisors. But the Board of Supervisors may submit a proposition for the repeal of such ordinance, or for amendments thereto, for vote at the next election; and should such proposition, so submitted, receive a majority of the votes cast thereon at such election, such ordinance shall be repealed or amended accordingly.

Sec. 21. Upon petition of 15 per cent. of the legal voters of the city and county of San Francisco to the Board of Supervisors, it shall be the duty of the said board to submit to the qualified electors of said city and county any amendment or amendments to this charter as set forth in said petition.

The Board of Election Commissioners shall make necessary provisions for submitting such amendment or amendments to the qualified voters, as herein provided, and to canvass the vote in the same manner as herein provided for the canvassing of other election returns.



*The Detroit Charter Law.*

In Michigan the Direct Legislation League did not quite succeed in obtaining the passage of a Direct Legislation Amendment by the last legislature (1899), but they did secure an act by which the people of Detroit can amend their own charter. The Common Council on its own initiative may submit a charter amendment to a referendum of the people or 5,000 voters by an initiative petition may force the Council to submit a charter amendment.

On the urging of the League, the Common Council on August 2d, by a unanimous vote, agreed to submit at the November election the following amendment to the people of Detroit:

"The Common Council of the City of Detroit shall not grant to any person or corporation a franchise; nor extend the life of any existing franchise for the use or control of any public utility, unless such franchise shall have been first submitted to a vote of the people of said city, and until the same shall have been approved by a majority of the electors of the municipality voting thereon at such election. All grants in contravention of this provision, and which shall not have been first submitted to a vote of the people and approved by a majority of the electors voting thereupon, shall be null and void. The Common Council of said city may in its discretion submit to the electors of said municipality, either at a general or a special election called for that purpose, any proposition embodying the granting of rights, privileges or franchises for the use or control of public utilities in the City of Detroit.

"Provided, that any one and all propositions which are to be submitted to a referendum vote shall be published, by title and in full at least once a week for eight successive weeks immediately preceding said election, in at least four newspapers published in the City of Detroit, and at least six half-sheet poster notices displayed conspicuously in each precinct of the city; and the Common Council may require that any or all expenses thereby entailed shall be paid by the party or parties applying for franchise. And be it further

"Provided, That this amendment shall not apply to the granting of any franchise for an extension not exceeding one and one-half (1½) miles in length on any street where a street railway franchise exists, for a term equal to the unexpired term of the franchise on the line so extended."

## PENNSYLVANIA.

In Pennsylvania, 1899, the Direct Legislation League and prominent

members of the Municipal League of Philadelphia tried to secure the passage of the following bill, subjecting franchise grants to referendum petitions. It was reported favorably in the House and passed first reading, but in the Senate it died in committee.

*Franchise Direct Legislation Bill Proposed in Pennsylvania.*

An act providing that no ordinance for the sale of real estate or for a lease or contract covering more than five years or for granting a franchise shall be operative in any city until it shall have been approved by a majority of the voters, if such approval shall be demanded within sixty days by three thousand voters, or by a number equal to five per cent. of the total of votes cast at the last preceding election, and providing for the submission of such ordinances to the voters at general or special elections.

SECTION 1. Be it enacted, etc. That from and after the passage of this Act, no ordinance for making or authorizing a sale of real estate or a lease or a contract covering more than five years, or for granting a franchise to perform a public service, or make use of public property, shall be operative in any city of this Commonwealth until after sixty days from the date of its passage; and if in any such case and during such period of sixty days three thousand of the qualified voters, or a number equal to five per cent. of the total number of votes cast at the last preceding election in such city shall demand that the ordinance shall be submitted to a Referendum, or direct vote of all the voters, such ordinance shall not be valid or operative until it shall have been so submitted and approved by a majority of those voting upon it.

SECT. 2. In every such case the papers containing the demand for the Referendum, or direct vote, shall be filed with the County Commissioners within the time specified, and each signer shall write his occupation and residence after his signature, and the genuineness of the signatures on each paper must be attested by the affidavit of a qualified voter.

SECT. 3. Such submission of an ordinance shall be made at the next regular election or at a special election to be held within ninety days of the filing of the Referendum papers, as the County Commissioners may determine.

SECT. 4. In every such Referendum the County Commissioners shall have clearly printed upon the official ballots the title of the ordinance, with the words "For" and "Against" in conspicuous capital letters, and each of the said two words shall be followed by a square enclosed space for the voter's mark.

SECT. 5. Except as herein otherwise provided, every such election shall be governed by the general laws of this Commonwealth.

SECT. 6. All laws and parts of laws inconsistent with this Act are hereby repealed.

## MUNICIPAL HOME RULE.

## FREEHOLD CHARTER AMENDMENTS.

The subjoined constitutional amendments giving cities the right to make their own charters to be adopted and amended by popular vote, are very important to all who are interested in the cause of municipal liberty. The Washington amendment is commendable for its brevity and its provision for adopting and amending charters by *majority* vote; the requirement of a four-sevenths vote for adoption in Minnesota and Missouri (except St. Louis), and three-fifths for amendment in Minnesota, Missouri and California, is unnecessarily burdensome. If a majority vote is sufficient to amend the constitution of a State, it surely should be sufficient to amend the charter of a city.\* It may be well to require a three-fifths or three-fourths or four-sevenths vote for sudden action, or for legislative action without recourse to the people, but to demand three-fifths or more when the *people* are voting after due notice and deliberation, is simply to enable a small minority to govern the majority. The provisions in California and Missouri (St. Louis) against amendment except at intervals of two years is also objectionable. The people of each city should determine for themselves how often they will allow their charter to be amended. The Minnesota clause commanding the board of freeholders to submit amendments on petition of 5 per cent. of the voters is admirable. By statute the board of freeholders to frame a charter, etc., is to be appointed by the district judge on petition of 10 per cent. of the voters of the municipality. Minnesota also leads in the universality of her amendment, no class of cities, large or small, being excluded from its benefits. If we could join in one provision the *good points* of these various amendments, *brevity, majority rule, 5 per cent.*

*initiative*, to set in motion the machinery of adoption or amendment, *universal application to all municipalities*, and then add a clause *excluding legislative interference* in any way with local self-government *in respect to specified local affairs, including street franchises and other local business matters*, then we should have an amendment that would secure real municipal liberty. The people of a city could adopt direct legislation in respect to ordinances, and popular sovereignty in local government would be assured. We have tried to suggest in Part I. an amendment embodying these good points.

Here are the amendments so far passed:

*The Washington Charter Amendment.*

The Washington Constitution, 1889, Article XI, Section 10, provides as follows:

Corporations for municipal purposes shall not be created by special laws, but the legislature, by general laws, shall provide for the incorporation, organization, and classification, in proportion to population, of cities and towns, which laws may be altered, amended, or repealed. Cities and towns heretofore organized or incorporated may become organized under such general laws whenever a majority of the electors voting at a general election shall so determine, and shall organize in conformity therewith; and cities and towns heretofore or hereafter organized and all charters thereof framed or adopted by authority of this constitution shall be subject to and controlled by general laws. Any city containing a population of twenty thousand inhabitants or more shall be permitted to frame a charter for its own government consistent with and subject to the constitution and laws of this state and for such purpose the legislative authority of such city may cause an election to be had, at which election there shall be chosen by the qualified electors of said city fifteen freeholders thereof, who shall have been residents of said city for a period of at least two years preceding their election, and qualified electors, whose duty it shall be to convene within ten days after their election, and prepare and propose a charter for such city. Such proposed charter shall be submitted to the qualified electors of said city, and if a majority of such qualified electors voting thereon ratify the same, it shall become the charter of said city, and shall become the organic law thereof, and supersede any existing charter, including amend-

\* Since this criticism was first published the California Legislature has proposed a new amendment changing the three-fifths requirement to a majority vote.



ments thereto, and all special laws inconsistent with such charter. Said proposed charter shall be published in two daily newspapers published in said city for at least thirty days prior to the day of submitting the same to the electors for their approval, as above provided. All elections in this section authorized shall only be had upon notice, which notice shall specify the object of calling such election, and shall be given for at least ten days before the day of election in all election districts of said city. Such elections may be general or special elections, and, except as herein provided, shall be governed by the law regulating and controlling general or special elections in said city. Such charter may be amended by proposals therefor submitted by the legislative authority of such city to the electors thereof at any general election, after notice of said submission published as above specified, and ratified by a majority of the qualified electors voting thereon. In submitting any such charter or amendment thereto, any alternate article or proposition may be presented for the choice of the voters, and may be voted on separately without prejudice to others.

#### *The Minnesota Charter Amendment.*

In Minnesota a freehold charter amendment was adopted in 1896. In 1897 an amendment to the amendment was proposed by act of the legislature and it was adopted by a vote of more than 2 to 1 in 1898. In 1899 the legislature passed an act (Chap. 351) to carry out this amendment and define the method of procedure under it. The amendment in its final form reads as follows, and is part of Art. 4, of the State Constitution:

##### *City or Village may Frame its own Charter.*

Section 36. Any city or village in this state may frame a charter for its own government as a city consistent with and subject to the laws of this state, as follows: The legislature shall provide, under such restrictions as it deems proper, for a board of fifteen freeholders, who shall be and for the past five years shall have been qualified voters thereof, to be appointed by the district judge of the judicial district in which the city or village is situated, as the legislature may determine, for a term in no event to exceed six years, which board shall, within six months after its appointment, return to the chief magistrate of said city or village a draft of said charter, signed by the members of said board, or a majority thereof.

##### *Charter to be submitted to Voters.*

Such charter shall be submitted to the qualified voters of such city or village at the next election thereafter, and if four-sevenths of the qualified voters voting at such election shall ratify the same, it shall, at the end of 30 days thereafter, become the charter of such

city or village as a city, and supersede any existing charter and amendments thereof: *Provided*, That in cities having patrol limits now established, such charter shall require a  $\frac{3}{4}$  majority vote of the qualified voters voting at such election to change the patrol limits now established.

##### *Legislature to Prescribe General Limits of Charter.*

Before any city shall incorporate under this act the legislature shall prescribe by law the general limits within which such charter shall be framed. Duplicate certificates shall be made setting forth the charter proposed and its ratification, which shall be signed by the chief magistrate of said city or village and authenticated by its corporate seal. One of said certificates shall be deposited in the office of Secretary of state, and the other, after being recorded in the office of the register of deeds for the county in which such city or village lies, shall be deposited among the archives of such city or village, and all courts shall take judicial notice thereof. Such charter so deposited may be amended by proposal therefor made by a board of fifteen commissioners aforesaid, published for at least thirty days in three newspapers of general circulation in such city or village, and accepted by three-fifths of the qualified voters of such city or village voting at the next election and not otherwise; but such charter shall always be in harmony with and subject to the constitution and laws of the State of Minnesota.

##### *Amendments to be Submitted upon Application of 5 per cent. of Legal Voters.*

The legislature may prescribe the duties of the commission relative to submitting amendments of charter to the vote of the people, and shall provide that upon application of 5 per cent. of the legal voters of any such city or village, by written petition, such commission shall submit to the vote of the people proposed amendments to such charter set forth in said petition. The board of freeholders above provided for shall be permanent, and all the vacancies by death, disability to perform duties, resignation or removal from the corporate limits, or expiration of term of office, shall be filled by appointment in the same manner as the original board was created, and said board shall always contain its full complement of members.

##### *Mayor and Legislative Body.*

It shall be a feature of all such charters that there shall be provided, among other things, for a mayor or chief magistrate, and a legislative body of either one or two houses; if of two houses, at least one of them shall be elected by general vote of the electors.

##### *Articles of Amendment may be Submitted Separately.*

In submitting any such charter or amendment thereto to the qualified voters of such city or village, any alternate section or article may be presented for the choice of the voters and may be voted on separately without prejudice to other articles or sections of the charter or any amendments thereto.

*General Laws for Cities by Divisions of Population.*

The legislature may provide general laws relating to affairs of cities, the application of which may be limited to cities of over fifty thousand inhabitants, or to cities of fifty and not less than twenty thousand inhabitants, or to cities of twenty and not less than ten thousand inhabitants, or to cities of ten thousand inhabitants or less, which shall apply equally to all such cities of either class, and which shall be paramount while in force to the provisions relating to the same matter included in the local charter herein provided for. But no local charter, provision or ordinance passed thereunder shall supersede any general law of the state defining or punishing crimes or misdemeanors.

Voted upon at the general election held November 8, 1898, and adopted by a vote of 68,754 in favor of said amendment to 32,068 against the same.

Proclamation of the vote issued by the Governor, December 29, 1898.

*The California Charter Amendment.*

Sections 6 to 8½, of Art. XI, of the California Constitution, as amended down to 1900, are as follows: (See pp. LIII and LIV, Cal. Statutes, 1899, and the new amendment to § 8 proposed at the extra session of 1900.)

Sec. 6. Corporations for municipal purposes shall not be created by special laws; but the Legislature, by general laws, shall provide for the incorporation, organization, and classification, in proportion to population, of cities and towns, which laws may be altered, amended, or repealed. Cities and towns heretofore organized or incorporated may become organized under such general laws whenever a majority of the electors voting at a general election shall so determine, and shall organize in conformity therewith: and cities and towns heretofore or hereafter organized, and all charters thereof framed or adopted by authority of this constitution, except in municipal affairs, shall be subject to and controlled by general laws. (Amendment adopted November 3, 1896.)

Sec. 7. City and county governments may be merged and consolidated into one municipal government, with one set of officers, and may be incorporated under general laws providing for the incorporation and organization of corporations for municipal purposes. The provisions of this constitution applicable to cities, and also those applicable to counties, so far as not inconsistent or prohibited to cities, shall be applicable to such consolidated government. (Amendment adopted November 6, 1894.)

Sec. 8. Any city containing a population of more than three thousand five hundred inhabitants may frame a charter for its own government, consistent with and subject to the Constitution and laws of this state, by causing a board of fifteen freeholders who shall have been for at least five years qual-

fied electors thereof, to be elected by the qualified voters of said city, at any general or special election, whose duty it shall be, within ninety days after such election, to prepare and propose a charter for such city, which shall be signed in duplicate by the members of such board, or a majority of them, and returned, one copy to the mayor thereof, or other chief executive officer of such city, and the other to the recorder of the county. Such proposed charter shall then be published in two daily newspapers of general circulation in such city for at least twenty days, and the first publication shall be made within twenty days after the completion of the charter; *Provided*, That in cities containing a population of not more than ten thousand inhabitants such proposed charter shall be published in one such daily newspaper; and within not less than thirty days after such publication it shall be submitted to the qualified electors of said city, at a general or special election; and if a majority of such qualified electors voting thereat shall ratify the same, it shall thereafter be submitted to the legislature for its approval or rejection as a whole, without power of alteration or amendment. Such approval may be made by concurrent resolution, and if approved by a majority vote of the members elected to each house it shall become the charter of such city, or if such city be consolidated with a county, then of such city and county, and shall become the organic law thereof and supersede any existing charter, and all amendments thereof and all laws inconsistent with such charter. A copy of such charter, certified by the mayor or chief executive officer, and authenticated by the seal of such city, setting forth the submission of such charter to the electors, and its ratification by them, shall, after the approval of such charter by the legislature, be made in duplicate, and deposited, one in the office of the secretary of state, and the other, after being recorded in said recorder's office, shall be deposited in the archives of the city; and thereafter all courts shall take judicial notice of said charter. The charter so ratified may be amended, at intervals of not less than two years, by proposals therefor, submitted by the legislative authority of the city to the qualified electors thereof, at a general or special election held at least forty days after the publication of such proposals for twenty days in a daily newspaper in general circulation in such city, and ratified by at least three-fifths of the qualified electors voting thereat, and approved by the legislature as herein provided for the approval of the charter. In submitting any such charter, or amendments thereto, any alternative article or proposition may be presented for the choice of the voters, and may be voted on separately without prejudice to others. (Amendment adopted November 8, 1892.)

Sec. 8½. It shall be competent, in all charters framed under the authority given by section eight of article eleven of this constitution, to provide, in addition to those provisions allowable by this constitution and by the laws of the state, as follows:

1. For the constitution, regulation, government and jurisdiction of police courts, and for the manner in which, the times at which, and the terms for which the judges of such courts shall be elected or appointed, and for the compensation of said judges and of their clerks and attaches.

2. For the manner in which, the times at which, and the terms for which the members of boards of education shall be elected or appointed, and the number which shall constitute any one of such boards.

3. For the manner in which, the times at which, and the terms for which the members of the boards of police commissioners shall be elected or appointed; and for the constitution, regulation, compensation, and government of such boards and of the municipal police force.

4. For the manner in which, the times at which, and the terms for which the members of all boards of election shall be elected or appointed, and for the constitution, regulation, compensation, and government of such boards, and of their clerks and attaches; and for all expenses incident to the holding of any election.

Where a city and county government has been merged and consolidated into one municipal government, it shall also be competent in any charter framed under said section eight of said article eleven, to provide for the manner in which, the times at which and the terms for which the several county officers shall be elected or appointed, for their compensation, and for the number of deputies that each shall have, and for the compensation payable to each of said deputies. (Amendment adopted November 3, 1896.)

At the Extra Session in 1900 the California Legislature proposed an amendment to § 8 changing the requirement of a three-fifths vote (for the adoption of charter amendments) to a provision requiring only a majority vote (for said purpose).

### *The Missouri Charter Amendment.*

The Constitution of Missouri (1875), Art. IX, Sections 16 and 17 provide that:

Sec. 16. Any city having a population of more than one hundred thousand inhabitants may frame a charter for its own government, consistent with and subject to the Constitution and laws of this State, by causing a board of thirteen freeholders, who shall have been at least five years qualified voters thereof, to be elected by the qualified voters of such city at any general or special election; which board shall, within ninety days after such election, return to the chief magistrate of such city a draft of such charter, signed by the members of such board or a majority of them. Within thirty days thereafter, such proposed charter shall be submitted to the qualified voters of such city, at a general or special election, and if four-sevenths of such qualified voters voting thereat shall ratify the same, it shall at the end of thirty days thereafter, become the charter of such city, and supersede any existing charter and amendments thereof. A duplicate cer-

tificate shall be made, setting forth the charter proposed and its ratification, which shall be signed by the chief magistrate of such city and authenticated by its corporate seal. One of such certificates shall be deposited in the office of the Secretary of State, and the other, after being recorded in the office of the recorder of deeds for the county in which such city lies, shall be deposited among the archives of such city, and all courts shall take judicial notice thereof. Such charter, so adopted, may be amended by a proposal therefor, made by the law-making authorities of such city, published for at least thirty days in three newspapers of largest circulation in such city, one of which shall be a newspaper printed in the German language, and accepted by three-fifths of the qualified voters of such city, voting at a special or general election, and not otherwise; but such charter shall always be in harmony with and subject to the Constitution and laws of the State.

Sec. 17. It shall be a feature of all such charters that they shall provide, among other things, for a mayor or chief magistrate, and two houses of legislation, one of which at least shall be elected by general ticket; and in submitting any such charter or amendment thereto to the qualified voters of such city, any alternative section or article may be presented for choice of the voters, and may be voted on separately, and accepted or rejected separately, without prejudice to other articles or sections of the charter or any amendment thereto.

Special provision for St. Louis was made in sections 20 to 23 inclusive, of the same article, as follows:

Sec. 20. The City of St. Louis may extend its limits so as to embrace the parks now within its boundaries, and other convenient and contiguous territory, and frame a charter for the government of the city thus enlarged, upon the following conditions, that is to say: The council of the city and county court of the county of St. Louis, shall, at the request of the mayor of the city of St. Louis, meet in joint session and order an election, to be held as provided for general elections, by the qualified voters of the city and county, of a board of thirteen freeholders of such city or county, whose duty it shall be to propose a scheme for the enlargement and definition of the boundaries of the city, the reorganization of the government of the county, the adjustment of the relations between the city thus enlarged and the residue of St. Louis county, and the government of the city thus enlarged, by a charter in harmony with and subject to the Constitution and laws of Missouri, which shall, among other things, provide for a chief executive and two houses of legislation, one of which shall be elected by general ticket, which scheme and charter shall be signed in duplicate by said board or a majority of them, and one of them returned to the mayor of the city and the other to the presiding justice of the county court within ninety days after the election of such board. Within thirty days thereafter the city coun-



city and county court shall submit such scheme to the qualified voters of the whole county, and such charter to the qualified voters of the city so enlarged, at an election to be held not less than twenty nor more than thirty days after the order therefor; and if a majority of such qualified voters, voting at such election, shall ratify such scheme and charter, then such scheme shall become the organic law of the county and city, and such charter the organic law of the city, and at the end of sixty days thereafter shall take the place of and supersede the charter of St. Louis, and all amendments thereof, and all special laws relating to St. Louis county inconsistent with such scheme. (a)

Sec. 21. *Scheme and charter, how authenticated*—Judicial Notice.—A copy of such scheme and charter, with a certificate thereto appended, signed by the mayor and authenticated by the seal of the city, and also signed by the presiding justice of the county court and authenticated by the seal of the county, setting forth the submission of such scheme and charter to the qualified voters of such county and city, and its ratification by them, shall be made in duplicate, one of which shall be deposited in the office of the Secretary of State, and the other, after being recorded in the office of the recorder of deeds of St. Louis county, shall be deposited among the archives of the city, and thereafter all courts shall take judicial notice thereof. (b)

Sec. 22. *Charter, how amended*.—The charter so ratified may be amended at intervals of not less than two years, by proposals therefor, submitted by the law-making authorities of the city to the qualified voters thereof at a general or special election, held at least sixty days after the publication of such proposals, and accepted by at least three-fifths of the qualified voters voting thereat. (c)

Sec. 23. *Charter in harmony with constitution and laws*—various provisions under.—Such charter and amendments shall always be in harmony with and subject to the Constitution and laws of Missouri, except only that provision may be made for the graduation of the rate of taxation for city purposes in the portions of the city which are added thereto by the proposed enlargement of its boundaries. In the adjustment of the relations between city and county, the city shall take upon itself the entire park tax; and in consideration of the city becoming the proprietor of all the county buildings and property within its enlarged limits, it shall assume the whole of the existing county debt, and thereafter the city and county shall be independent of each other. The city shall be exempted from all county taxation. The judges of the county court shall be elected by the qualified voters outside of the city. The city, as enlarged, shall be entitled to the same representation in the General Assembly, collect the State revenue and perform all other functions in relation to the State, in the same manner, as if it were a county as in this Constitution defined; and the residue of the county shall remain a legal county of the State of Missouri, under the name of the county of St. Louis. Until the next apportionment for senators and representatives in the General Assembly, the city shall have six senators and fifteen representatives, and the county one senator, and two representatives, the same being the number of senators and representatives to which the county of St. Louis, as now organized, is entitled under sections eight and eleven of article IV of this Constitution. (d)

### *The Detroit Charter Law.*

For an account of the popular initiative in the amending of the charter in Detroit see above, p. 508

## PUBLIC OWNERSHIP.

The Constitutional Amendment of South Carolina and the sweeping laws of Indiana, Washington and Minnesota deserve special attention. Combine the good points and put a condensed far-reaching provision like that of Indiana into Constitutional form with reasonable initiative and referendum clauses, so that the option of taking action under the provision to build or buy, etc., may rest with the people, instead of the councils, and you will have a measure of admirable scope and effectiveness.

### *South Carolina.*

The South Carolina Constitution, Art. VIII, provides:

#### *Street Railways, etc.*

Sec. 4. No law shall be passed by the General Assembly granting the right to construct and operate a street or other railway, telegraph, telephone or electric light plant, or to erect water or gas works for public uses or to lay mains for any purpose, without first obtaining the consent of the local authorities in control of the streets or public places proposed to be occupied for any such or like purposes.

*Water Works and Plants for Furnishing Lights.*

Sec. 5. Cities and towns may acquire, by construction or purchase, and may operate, water works systems and plants for furnishing lights, and may furnish water and lights to individuals, firms and private corporations for reasonable compensation: *Provided*, That no such construction or purchase shall be made except upon a majority vote of the electors in said cities or towns who are qualified to vote on the bonded indebtedness of said cities or towns.

*Indiana Statutes.*

The Indiana Statutes (1896) give exclusive control of streets to the Common Councils (Section 4154) and require street railways to obtain consent of councils to street locations.

Under "Powers of Board of Public Works in cities of 35,000 to 49,000" Section 7163, thirty-fourth line, I find this REMARKABLE passage:

"To purchase or erect, by contract or otherwise, and operate water works, gas works, electric light works, street car and other lines for the conveyance of passengers and freight, natural gas lines, telegraph and telephone lines, for the purpose of supplying such city and the suburbs thereof, or to purchase or hold a majority of the stock in corporations organized for either of the above purposes: *Provided*, That none of the powers conferred by this paragraph shall be exercised except pursuant to an ordinance specifically directing the same."

*Washington Statutes.*

Chapter 112 of the Washington laws of 1897 provides for municipal construction (or purchase) and operation of water, light, heat, railway and power plants and for the issue of bonds, etc. The preamble and sections 1 and 2 are as follows:

An Act authorizing cities and towns to construct, condemn and purchase, purchase acquire, add to, maintain, conduct and operate water works, systems of sewerage, works for lighting, heating, fuel and power purposes, cable, electric and other railways, with all land and property required therefor, providing for payment therefor.

*Be it enacted by the Legislature of the State of Washington:*

*Municipality may Buy, Conduct and Operate Water Works, Light, Heat and Power Plants, Street Railways, etc.*

Section 1. That any incorporated city or town within the state be and is

and purchase, purchase, acquire, add to, maintain, conduct and operate water works within or without its limits for the purpose of furnishing such city or town, and the inhabitants thereof, and any other persons with an ample supply of water for all uses and purposes,

public and private, including water power or other power derived therefrom, with full power to regulate and control the use, distribution and price thereof; and to construct and maintain systems of sewerage, with full jurisdiction and authority to manage, regulate and control the same, within and without the limits of the corporation; and to construct, condemn and purchase, purchase, acquire, add to, maintain and operate works, plants and facilities for the purpose of furnishing such city or town and the inhabitants thereof and any other persons with gas, electricity and other means, power and facilities for lighting, heating, fuel and power purposes, public and private, with full authority to regulate and control the use, distribution and price thereof; and to construct, condemn and purchase, purchase, acquire, add to, maintain and operate cable, electric or other railways within the corporate limits of such city or town, for the transportation of freight and passengers, with full authority to regulate and control the use and operation thereof, and to fix, alter, regulate and control the fares and rates to be charged thereon. (Chap. 128 of the Acts of 1899 amends this law by adding power to cities and towns to *authorize others* to construct electric, gas or heating plants, and to buy electrical power from them and regulate the use and price of it.)

*May Provide Therefor by Ordinance Submitted to the Voters.*

Sec. 2. Whenever the city council or other corporate authority of any such city or town shall deem it advisable that the city or town of which they are such officers shall exercise the authority conferred upon them in relation to water works, sewerage, works for lighting, heating, fuel and power purposes, or cable, electric or other railways, any or all thereof, the corporation shall provide therefor by ordinance, which shall specify and adopt the system or plan proposed and declare the estimated cost thereof as near as may be, and the same shall be submitted for ratification or rejection to the qualified voters of said city or town at a special election, of which thirty days notice shall be given in the newspaper doing the city or town printing, by publication in each issue of said paper during said time: *Provided*, That if the said city or town is to become indebted and issue bonds or warrants for such water works, sewerage system, lighting, heating, fuel and power works or railways, the said proposition and authority to become so indebted shall be adopted and assented to by three-fifths of the qualified voters of said city or town voting at said election, except as to the adoption or rejection of the system or plan of said improvements, which may be adopted by a majority vote. When such system or plan has been adopted, and no indebtedness is to be incurred therefor, the corporate authorities may proceed forthwith to construct and acquire the improvements or lands contemplated, making payment therefor from any available funds. When the system or plan has been adopted and the creation of an indebtedness by the issuance of bonds



or warrants assented to as aforesaid, the said corporation shall be authorized and empowered to construct and acquire the improvements or lands contemplated, and to create an indebtedness and to issue bonds or warrants therefor, or for combinations thereof, as hereinafter provided, to wit:

*Minnesota Statutes (1894).*

**Section 2592. Works of internal improvement.**

Any number of persons not less than five, may associate for incorporation and become incorporated under and according to this title, for the construction, maintenance and operation of any work or works of internal improvement requiring the taking of private property, or any easement therein, for public use, including railways, telegraph lines, canals, slack-water or other navigation upon any water course, bay or lake, dams to improve or create a water supply or power for public use, and any work or works with all requisite subways, pipes and other conduits for supplying the public with water, gas light, electric light, heat or power; and any citizens of the United States, not less than nine in number, owning any railway now or hereafter constructed for public use within this state for transportation of persons or property, or organized for the purpose of maintaining and operating under any lease or contract, a railroad constructed for like public use may, by making and filing articles of association under and according to this title, acquire and enjoy the rights, powers, privileges and franchises hereinafter granted, and may, by filing in the office of secretary of state a resolution of such corporation expressing its intent to construct, maintain and operate any branch line, become empowered to construct, maintain and operate the same in connection with its main line, subject, however, to the provisions of this title and the general laws of this state, and any corporation formed hereunder may construct, maintain and operate telegraph lines along or over its lines of railroad, and any corporation formed hereunder or under any act hereby amended, may charge and collect a reasonable compensation for its service. *But no corporation formed under this title shall have any right to construct, maintain or operate upon or within any street, alleys or other highway of any city or village, a railway of any kind or any subway, pipe line or other conduit for supplying the public with water, gas light, electric light, heat, power or transportation or any improvement of whatsoever nature or kind, without first obtaining a franchise therefor from such city or village according to the terms of its charter and without first making just compensation therefor as herein provided: Provided, That the state of Minnesota shall at all times have full power and authority to supervise and regulate the business methods and management of any corporation existing and operating hereunder, and shall also have full power and authority at all times to fix the compensation which shall or may be charged or received by any corporation existing*

and operating hereunder. And any corporation organized under this act shall be subject to any condition from time to time imposed by such village or city thru its board of trustees or city council: *And provided further, That the Common Council of any city and the board of trustees of any village at the end of each and every five years from and after the granting of any franchise for the construction of any street railway, telephone, water works, gas and electric light, heat or power works, or any or all of them, shall have the right, when authorized so to do by a two-thirds vote of the electors of such municipality as hereinafter provided, to acquire the same by purchase and thereafter operate the same, upon paying to the company, corporation or person owning the franchise the full and true cost and value thereof, to be determined by the usual proceedings for acquiring public property for public use under the right of eminent domain upon petition of the authorities of such municipality. Except that none of the commissioners so appointed to appraise the same shall be residents of said municipality, and except further, that all the property, if any thereof, owned by the corporation in interest, under and in connection with said franchise shall be included in such proceeding and purchased and acquired hereunder. Before any such property shall be acquired by any municipality or such proceedings be instituted, the proposition to acquire the same shall be submitted to a vote of the electors of the said municipality, at a special election called for that purpose within the three months immediately prior to the expiration of any five years of said franchise and then only when authorized by two-thirds of the votes cast at said election. The consideration paid for any such works or property acquired under this provision shall be first applied to the payment of any bonds upon the property or works acquired and the balance, if any, to the person, company or corporation owning said franchise.*

*Kansas Statutes.*

The Kansas laws of 1897, chap. 82, after providing that water, gas and other corporations may operate under regulations laid down in the act and such others as the municipalities may prescribe, and enacting that as a condition precedent to procure a renewal or original grant, lease or contract from any city of the first, second or third class, to furnish light, power, water or heat, the companies must furnish an itemized account of all materials used in constructing their plants and the value of them, proceeds as follows:

*City Authorized to Provide Plants.*

Section 8. That all cities of the first, second and third class of the state of

Kansas are hereby granted full power and authority on behalf of such cities to purchase, procure, provide and contract for the construction of, and to construct and operate gas plants, electric light plants, electric power or heating plants, and water works, and to secure, by lease or purchase, natural gas or other lands, for the purpose of supplying such cities and the citizens thereof with water, light, gas, power or heat for domestic use and all other purposes: *Provided*, That nothing in this act shall prevent any such city from constructing any such plant at any time after the act takes effect.

Sec. 9. That for any and all indebtedness created for any of the purposes mentioned in section eight of this act, any city of the first, second or third class, is hereby granted full power and authority to issue the bonds of the city to an amount equal to said indebtedness; the said power to create such indebtedness and to issue bonds being independent of and in addition to like and other powers heretofore granted such cities; but such bonds shall not be issued in amount to exceed twenty per cent. of the assessed value of such city as shown by the last preceding assessment. Said bonds shall not be issued in denominations of less than ten dollars, nor more than two hundred dollars, and shall run for a period of not to exceed twenty years, and shall bear interest at a rate not to exceed 6 per cent. per annum, and may be used in payment in the purchase or construction of the plant or plants to such persons as will receive them and to whom such city may become indebted in the construction or purchase of any such plant or plants, at not less than their face value, and as directed by the mayor and council of said city; and said bonds shall be receivable in the payment of city taxes in an amount not to exceed ten per cent. of said taxes in any one year.

#### *To Vote on Issue of Bonds.*

Sec. 10. On presentation of a petition signed by two-fifths of the resident taxpayers of any such city as shown by the last assessment roll, the acting mayor of such city shall issue a proclamation for a city election to be held, giving at least thirty days notice thereof in a newspaper published and of general circulation in said city, for the purpose of submitting to the electors of such city a proposition to issue bonds of such city for any and all purposes mentioned in the last two preceding sections, and section twelve of this act.

Sec. 11. If, upon a canvass of the returns of said election, it shall appear that a majority of the electors voting at such election are in favor of issuing said bonds, the corporate authority of the city shall issue the same for the purpose and in the manner and to the amount specified in this act.

#### *Limit of Grant.*

Sec. 12. No renewal or original grant, lease or contract provided for in this act shall continue for a longer period than twenty years, and any such grant, lease or contract may be terminated at any time after the expiration of ten

years from the making of the same, or such less time as may be fixed at the time of making such grant, lease or contract, and the city may acquire title to any gas light, electric light, electric power, water works or heating plant of any private corporation upon the expiration of any existing grant, lease or contract now in force with any such corporation, or upon the termination of any future grant, lease or contract made in accordance with this act; and all the rights, privileges and property thereto pertaining, in the following manner, to wit: The city may, upon the termination of any grant, lease or contract now in force with any such corporation, or at any time after the expiration of ten years from the making of such grant, lease or contract under this act, or after the expiration of such less time as may be stipulated in the grant, lease or contract, file a petition in the district court of the county in which said city is situated, against the owner or owners of any such plant and others interested therein, which petition shall contain a general description of the plant or property, setting forth the interests or property rights of said corporation or others therein, as near as may be done, and praying that the city may be permitted to acquire a title thereto in the manner provided in this act. Thirty days notice shall be given to all persons interested in said property at the time for the hearing of the said application, by publication in three successive issues of some weekly newspaper printed in such city, having general circulation therein, the first of which shall not be less than thirty days prior to the time of the hearing, and also by delivering a copy of such notice to the manager of such plant, if such manager can be found within the county. In such proceedings, petition and notices, it shall not be necessary to state the names of any of the parties interested as defendants, except those of the reputed owner or owners.

#### *Appoint Commissioners.*

At the time set for the hearing of such petition, the court shall appoint three disinterested commissioners, non-residents of the city, one of whom shall be named by the court and the other two by the county commissioners of said county. The commissioners so appointed, after having taken and subscribed an oath to faithfully and impartially discharge their duties as such commissioners, shall forthwith proceed to determine the then present value of such plant, exclusive of the city's franchise or property element therein, which value shall be a fair value thereof. The commissioners so appointed shall have power to administer oaths, to subpoena and compel the attendance of witnesses, and the production of books and papers, and any citizen taxpayer or officer of the city may appear before them and be heard as to the city's interest. Within thirty days after their appointment, unless, for good cause shown, the time be extended by the court or the judge thereof, the commissioners shall file their report with the clerk of said district court. If any commissioner so appointed shall fail to

act, or his place become vacant for any other reason, the court shall fill such vacancy. The action of a majority of such commissioners shall be deemed to be the action of the commissioners. Within ten days after the filing of such report, any citizen of such city or other person interested may file exceptions thereto, and thereupon the court or the judge thereof shall appoint a time not more than thirty days from the filing of such report, for the hearing of such exceptions, which exceptions shall be heard in a summary manner without pleading, and upon such hearing the court may confirm the said report or may set the same aside as shall be just, and appoint new commissioners. In the event such report shall be set aside, further proceedings shall be had in all respects as in the case of the original appointment of commissioners, until the award of the commissioners shall be confirmed by the court. No appeal shall lie from the action of the court upon the hearing of exceptions to any award of the commissioners. Said commissioners shall be allowed three dollars per day for services rendered, to be paid out of the city treasury. At any time within four months after the confirmation of such award by the district court, the city may deposit the amount of the award with the treasurer of the county for the use of the owners or others interested in such plant; and if, for any cause, such commissioners so appointed shall fail or refuse to make and file their report within the time limited therefor, the court, by attachment, may compel such filing, or may discharge such commissioners and appoint new ones from time to time until commissioners shall be appointed, two of whom shall agree upon a report. From the time of making such deposit with the county treasurer the city shall be absolute owner of any and all privileges, property, and property rights of

any such corporation, and all others in any way interested in any such plant, free and clear of the claims of all persons theretofore interested therein. Upon application of the city, writs of assistance shall be granted by said district court, directing the sheriff of the county to put such city into possession of such plant. The court shall determine as to the proper disposition of the sum so awarded, including the rights of incumbrances, owners, and all others interested therein, and any such person aggrieved by such determination may review the same by petition in error in the supreme or appellate court.

There are strong ideas in this law, but it is unnecessarily wordy, it omits street railways, telephones, telegraphs, etc., and does not authorize cities to acquire plants by purchase of a majority of stock, which is sometimes the best and easiest way to do the work. For brevity and comprehensiveness the Indiana law above cited is most admirable, as are also the italicized clauses in the Minnesota statute.

A clause covering *all* street franchises and local public utilities, authorizing *all* municipalities to *build, buy, or grant*, with the *referendum and a 5 per cent. initiative*,—that is what public ownership needs,—such a clause put into the constitution of every state, beyond the reach of legislative interference, will give us in large degree, public ownership, direct legislation and municipal home-rule all in one.



## Part II. Proposed Legislative Forms.

### A. Proposed Legislative Forms for Public Ownership, Publicity, Regulation of Rates, Progressive Taxation, &c.

#### PUBLIC OWNERSHIP.

##### *Public Ownership.—Broad.*

§1. On a vote of the people to that effect, any city or town may build or buy, own and operate, water, gas, electric, street railway, telegraph or telephone plants to serve the municipality and its inhabitants; or may take such works by lease or contract, or purchase and hold a majority of the stock controlling any such plant or plants.

§2. Cities and towns may unite in the purchase, construction, operation, etc., of such plants.

§3. The executive *may* submit such questions at any election, and on petition of 5 per cent. of the voters, or request of councils in case of a city, *must* submit them at the next election, first notifying the citizens fully of the matters to be voted upon by thoro publication at least three weeks before the vote.

§4. Public works shall not be sold or leased except in accord with a referendum vote.

[If it is desired to give cities and towns the right to force the purchase of private works, the following clause may be incorporated in the law or amendment, viz.—*Cities and towns shall have the right to purchase such works at the cost of duplication, and may enforce such right by proceedings at law as in taking land for public use by right of eminent domain.*—In States where franchises are revocable, as in Mass., there is no legal necessity of paying more than the cost of duplicating the physical plant, and the same rule holds in any State in respect to a purchase made at the end of a franchise term.]

##### *Bonds.*

Bonds may be issued to secure public works, *provided*, they shall not exceed in amount the value of the works; and bonds issued to se-

cure revenue producing works shall not be counted in estimating the indebtedness of the municipality in relation to the debt limit.

##### *Gas and Electric Works.—General.*

(With referendum clauses adapted to states in which the town meeting system prevails.)

§1. On a vote of the people to that effect, any town or city may build or buy, own and operate, gas, electric or other works to supply the municipality and its inhabitants with light, heat or power, or may take such works by lease or contract, or may purchase and hold a majority of the stock controlling any such local plant or plants supplying its inhabitants.

§2. Cities and towns may unite in the purchase, construction and operation of such works.

§3. The mayor of a city *may* cause the question of such purchase or construction, etc., to be submitted to the voters of the city at any election, and upon petition of 5 per cent. of said voters, or of either council or board of aldermen, *shall* cause such question to be submitted at the next election, first notifying the citizens fully of the matters to be voted upon by thoro publication at least three weeks before the vote.

In a town the matter may be determined by putting the question in the warrant in the regular way and deciding it by vote at *town meeting*.

§4. The construction, maintenance, and management of such public works may be placed in such hands and conducted on such plan as may be decided upon by town meeting, or, in a city, by ordinance or 5 per cent. initiative petition rat-

ified in either case by the voters at the polls.

§5. Hereafter no grant or extension or renewal of any franchise or street privilege for the manufacture or distribution of gas or electricity for the supply of light, heat or power in any municipality, shall be valid until ratified by the people.

§6. Public works shall not be sold or leased except upon and in accordance with a vote of the people in town meeting or at the polls.

[If thought best the following form may be used for Sec. 4 instead of the clause just given: Sec. 4. The construction, extension, maintenance and management of such municipal works, employment of superintendent, etc., and all matters of direction and operation shall be in charge of a non-partisan board of three members (no two members from the same political party) appointed by the mayor or selectmen, one member to hold 1 year, another to hold 2 years and a third to hold 3 years, and each year after the first one new appointment to be made to hold 3 years.

Or, if desired the board may be elective; or the works may be put in control of a single officer appointed or elected. On the whole, the first form of Sec. 4 according local option and full municipal liberty in this matter of management, seems much the preferable form. A town or city has as much right to determine the plan on which its own particular business affairs shall be managed, as an individual or firm or partnership of six or a dozen have to determine the plan on which their own particular business affairs shall be managed.]

#### *Gas and Electric Works.—Special.*

Where the law gives cities authority to "build or buy," the matter is reduced to its lowest terms. The building option will generally bring the companies to reasonable terms, and the good sense, self-interest and justice of the people may be relied upon to prevent ruinous competition with a company having suitable works and willing to sell them at a reasonable price. If, however, it is deemed desirable to provide more specifically for the purchase of private works the following forms may be found useful. They are intended to apply where franchises are revocable at will as in Mass., but may easily be adapted to purchases at the expiration of franchise terms, or to the purchase of works with outstanding franchise terms. They may be incorporated in the last bill just after section 2 above.

Sec. 3. Where gas or electric works established for the purpose the municipality has in view, and reasonably fit therefor, already exist and their owners are willing to sell as hereinafter provided, the purchase of such works (or, if two or more distinct plants of different ownership exist for said purpose in the same municipality, the purchase of at least one of such plants) shall be a condition of the rights of municipal construction, operation, etc., set forth in section 1.

(a) In case of a gas or electric plant lying within the limits of a city or town, it may buy the same at its actual value.

(b). In case of a plant lying partly in one municipality and partly in another:

FIRST, all municipalities concerned may co-operate and buy the whole plant at its actual value; or

SECOND, the municipality in which the main gas works or central lighting station of the plant is situated, may purchase the whole plant at the said actual value and may operate the plant within and without the municipal limits; or

THIRD, any municipality may purchase the portion of such plant within its own limits at the actual value of such portion, plus the damages due to the severance of such portion from the rest of the plant; and as between two municipalities each desiring to own a given portion of such a plant, this third right shall be paramount to the second or to any ownership acquired under the second.

Sec. 4. The said actual value shall not include any allowance for franchise or for privileges in the streets, nor take any account of good will or earnings, past, present or future, but shall be simply the actual value of the physical plant (or portion thereof), and easements, patents (or other rights derived from private parties) taken with the plant, *plus* a fair allowance for the plant's being a "going concern" where that is the case; (see Appendix III)—the value of the physical plant to be found by taking the cost of establishing a new plant (or portion) of equivalent capacity and equally good materials and workmanship, and subtracting the portion of this value representing the inferiority of the existing plant as compared with a new one of equivalent capacity, by reason of age, wear and tear, progress of invention and discovery, or other source of depreciation.

The estimates of cost, depreciation, actual value and damages for severance, if any, shall relate to the time of the vote for purchase, the prices of labor, materials, machinery, etc., and other conditions at that date being used, in making the calculations.

Sec. 5. Upon a vote for purchase, the mayor or selectmen shall forthwith give notice of such vote to the person, firm or corporation owning the works to be bought, and such owners. If they desire to sell, shall, within 15 days after said notice, appoint some person to act as arbitrator; within the same time a second arbitrator shall be appointed by the mayor or selectmen; and these two shall choose a third who shall not be an officer of the municipality, nor an officer or stockholder of the company, or otherwise interested in said works



to be bought. Within 60 days the arbitrators shall report to the mayor or selectmen and to the person, firm or company owning the works, their determination as to the reasonable fitness of the works, and the aforesaid cost, depreciation, actual value, and damages for severance, if any. If no two of the arbitrators agree, or arbitration fails in any way after the appointment of an arbitrator by the owner or owners of the works, or if either party feels aggrieved by the results of the arbitration, or refuse to execute the sale or purchase in accordance with the award of two arbitrators, petition will lie within 15 days, to the supreme judicial court or any justice thereof, on which a trial shall be had in the manner of hearings in equity, and the decree of the court shall be final and binding, and the court shall have jurisdiction in equity to compel compliance therewith on behalf of either party.

On payment of the aforesaid actual value and damages for severance, if any, as determined by award, or by decree if the matter is taken into court, the municipality shall have a right to the title and possession of said works (or portion) free of all incumbrance, or it may pay over the difference between the amount of said value and damages, and the amount of any lien, mortgage, or other incumbrance on the property, and take the works subject to such incumbrance.

Sec. 6. Upon the purchase of such works (or portion) by a municipality, all rights of the former owners or others to make or distribute gas or electricity in that municipality shall cease, except as far as expressly agreed to the contrary between such persons and the municipality in pursuance of an ordinance ratified at the polls or a vote in town meeting; *Provided*, however, that if two or more distinct plants exist in the municipality and it does not buy them all, those remaining unbought shall retain all rights of manufacture, distribution, etc., as if the municipality had not entered the field.

Sec. 7. If the owners of said works refuse to sell or decline to arbitrate as above provided, the city or town may proceed to build works of its own.

Sec. 8. If no suitable works exist in the town or city it may construct them and extend, enlarge, own, control, maintain and operate them.

#### *Publicity.*

All business done by virtue of, or in connection with, any public franchise, shall be subjected to frequent and thoro inspection and auditing by public officers, and the results shall be placed on file in public offices in convenient places in the localities interested, and shall be open at all times during ordinary business hours to examination by any person.

The legislature shall forthwith enact laws to carry this provision into effect and provide penalties against any person, firm or corpor-

ation doing such business and interfering with or refusing proper aid and facilities in the execution of this law.

#### *Reduction of Rates.*

The rates charged for water, gas, electric light, transit, telephone and other monopolistic services, shall not exceed the rates required to cover operating expenses (including depreciation) and a reasonable percentage of interest or profit on the real present value of the actual legitimate investment, or the actual value of the physical plant (cost of duplication less depreciation) plus the present value of any amount legitimately paid for franchises considering the proportion of the franchise term still unexpired.

The legislature shall forthwith enact laws to carry this provision into effect, and shall amend such laws from time to time as experience may show to be necessary to accomplish the purpose and execute the spirit of this amendment.

#### *Taxation and Overcapitalization.*

Corporations and combines shall be taxed upon the actual value of their tangible property at the same rates that similar values in individual hands are taxed, and if either the face or market values of the stock and bonds or other securities of any company or combination reaches a total in excess of the said actual value of its tangible property, they shall be taxed on such excess at triple rates upon the full amount of the excess.

#### *Progressive Taxation.*

All incomes of persons, firms or corporations, of \$2,000 or more per year shall be classified in groups ascending in geometric progression, and these groups shall be taxed at rates ascending in arithmetic progression, to wit:

Income.	Per cent. tax.	Income.	Per cent. tax.
\$2,000....	1	\$2,048,000....	11
4,000....	2	4,096,000....	12
8,000....	3	8,192,000....	13
16,000....	4	16,384,000....	14
32,000....	5	32,768,000....	15
64,000....	6	65,536,000....	16
128,000....	7	131,072,000....	17
256,000....	8	262,144,000....	18
512,000....	9	524,288,000....	19
1,024,000....	10	1,048,576,000....	20

This is a mild form; the tax would not be likely to go beyond 16 or 17 per cent. in any case; the following is more thoroughgoing:

Incomes of persons, firms or corporations, of \$2,000 or more, shall be classified in groups ascending by twos as far as \$10,000, then by fives to \$25,000, and from there on in geometric series. These groups shall be taxed at rates ascending in arithmetic series to 10, and then by steps of 5 up to 60 per cent. on 100 millions as follows:

Income.	Percent. tax.	Income.	Percent. tax.
\$2,000.....	1	\$200,000.....	15
4,000.....	2	400,000.....	20
6,000.....	3	800,000.....	25
8,000.....	4	1,600,000.....	30
10,000.....	5	3,200,000.....	35
15,000.....	6	6,000,000.....	40
20,000.....	7	12,800,000.....	45
25,000.....	8	25,600,000.....	50
50,000.....	9	51,200,000.....	55
100,000.....	10	102,400,000.....	60

Inheritances, bequests and devises above \$10,000 to be taxed at the same rates as incomes, except

such as accrue to public institutions.

In his great book, "The Wonderful Century," the eminent scientist, Alfred Wallace advocates a progressive income tax of 10, 20, 30 and 40 per cent. on the surplus over the same number of thousand pounds in the income, "rising to 100 per cent. on the surplus above £50,000," and "a corresponding or even larger increase in the death dues." This is much more drastic than the measures we have proposed.

The percentage of tax should rise rapidly with the high incomes, but a scale running up to 100 per cent of all above \$250,000 seems much too steep a slope for present conditions in this country.

The tax should be progressive as to time as well as to amount of income, that is, *all* the percentages should be increased every few years till a reasonable diffusion of wealth is attained or co-operative industry takes the place of private monopoly and competition, in either of which cases *incomes* will be fairly equalized. (See pp. 550, 552, 347 Swiss. 169 New Zealand.)

## *B. Proposed Legislative Forms for Direct Legislation and Municipal Home Rule.*

### DIRECT LEGISLATION.

The simplest method of securing the benefits of direct legislation is to *pledge the candidates for town, city, state and national offices to submit important matters to the voters and abide by their decision.* Franchises and other large affairs acted on by the legislative authorities should be placed within this circle of "important matters" and it should also be understood that all measures in respect to which a specified percentage of the voters petition for action, would be deemed within the pledge.

This method of pledging candidates to submit franchises and other important questions to the people was adopted in Winnetka, Ill., some years ago, as a result of the defeat of an unjust 50-year gas-franchise by referendum vote. Every year since that the nominees for election to the village Board of Trustees have been obliged to get up in a public meeting of the citizens and take a pledge that if elected they would vote to submit to the people every proposed franchise or other important measure and abide by the popular will. Though no provision is made for initiative by popular petition as recommended above, the Winnetka pledge has proved a very effective safeguard to self-government by placing a practical veto in the hands of the people. (See Appendix III.)

Mr. Geo. H. Shibley has drawn up an admirable plan for the extension of the Winnetka method to city, state and national governments. (See Appendix III.)

The pledging of candidates to vote for the submission of important measures is simple, direct and rapid, but it must be perpetually renewed and it has no legal basis, no binding force in law, no guarantee against the purchase or disaffection of the electors, who may under sufficient pressure disregard their pledges

and grant a franchise in spite of the popular vote against it, and the franchise so granted would not be invalidated by the trifling fact that the people, the principals and owners of the franchise, did not want their "agents" to give it away, or disapproved of the grant.

In view of this strange condition of the law that sustains an "agent" in giving away or selling far below value the property of his principal against the principal's protest and contrary to the definite agreement on the basis of which the principal appointed the "agent"—in view of this sublime twist in legal logic the only safe plan is to secure constitutional amendments guaranteeing the referendum and initiative and making them effective by invalidating all acts in contravention of them. *All CANDIDATES from the primaries up should be PLEDGED to vote and work for such amendments as well as to introduce at once the Winnetka principle into the methods of legislative procedure and VOTERS should be PLEDGED as fast as possible to work and vote for candidates who will do their utmost to establish the popular veto and initiative.* (See Appendix III, "Massachusetts Referendum Union," "National Referendum League," and "The Shibley Plan.")

Among all the valuable constitutional and statute forms the simplest and briefest measure and the one that asks for the smallest change from existing methods is a Constitutional Provision affording an additional means of amending the State Constitution by providing that on petition of a certain number of voters proposing an amendment it shall go to the polls for decision without the necessity of passing through the Legislature. This opens a way to municipal liberty (or other desired reform) that is direct and easily available, and will be of inestimable value when the old road through the legislature is obstructed or blocked. The following is a convenient form for such a provision:

## A

### Sovereignty of the People, rendered more Real and Effective.

*A direct and simple method of amending state constitutions, which, added to the methods already in use, will give the people more perfect control over their constitutions and governments, and enable them to secure control of franchises, municipal freedom, direct legislation, or other advance as soon as they desire it and in spite of the opposition of political rings or future legislative cliques.*

## AMENDMENT TO STATE CONSTITUTION.

### Providing an additional means of making constitutional amendments.

[Insert preliminary matter appropriate in the particular state to legislative resolutions proposing constitutional amendments.]

#### ARTICLE OF AMENDMENT.

*On petition of \_\_\_\_\_<sup>1</sup> voters, filed with the Secretary of State, asking that a specified amendment to the constitution be submitted to the people, the said amendment shall be so submitted at the next election (occurring one month or more after the filing of said petition), and if approved by a majority of the legal electors voting upon it, such amendment shall become a part of the constitution of the state.*

<sup>1</sup> The number of voters required on the petition may be fixed at 3000, 5000 or 10,000, according to the size of the state, or may be a percentage, as 1, 2 3 or 5 per cent., or both elements may be used to make a compound test—5000 legal voters or a number equal to 5 per cent. of the total vote at the last preceding election in said state, is a good form for states of medium size.

Bills on the principle of form A, were urged upon the Legislature of Mass. at the session of 1900 and again in 1901. The number of voters required was 50,000 on one bill, and 75,000 on another, but even with these high percentages the bills were unsuccessful (see Supplement. "Direct Legislation"). In Rhode Island the following form has been introduced:

## ARTICLE OF AMENDMENT.

One-twentieth, or more, of the electors of the state, qualified to vote for general officers may propose amendments to this constitution by filing with the secretary of state, not less than three months, and not more than nine months, prior to any general election, a petition that the electors may, at such general election, cast their ballots for or against such amendments. Such propositions for amendment shall be published in the newspapers, and printed copies of them shall be sent by the secretary of state, with statements of the number of electors petitioning therefor, to all the town and city clerks in the state. The said proposition shall be, by said clerks, inserted in the warrants or notices by them issued for warning the next annual town, district and ward meetings at said general election; and the clerks shall read said propositions to the electors when thus assembled, with the statements of the number of electors petitioning therefor, before the election shall be had. Any proposition thus made shall be submitted to the electors by the secretary of state at said annual meeting, and if then approved by a majority of the electors of the state present and voting thereon in town, district and ward meetings, it shall, ninety days thereafter, become a part of the constitution of the state.

Where a prejudice exists against the initiative, or against the constitutional initiative, it may be best to try a bill securing the people the right to demand the referendum on any bill pending before the legislature. This secures a practical initiative, since some member can usually be found to introduce any measure on which a vote is desired. The following is a good form for such a measure:

## RHODE ISLAND FORM.

### BILL OR AMENDMENT.

*On petition of ——— voters, filed with the Secretary of State, asking the referendum on a specified measure, law or amendment pending before the legislature, or acted upon by it*



*within 60 days preceding the filing of said petition, the said measure shall be submitted to the voters for final decision at the next election occurring one month or more after the filing of said petition and if approved by a majority of the legal electors voting upon it, such measure shall become law, otherwise not; Provided, that this section shall not apply to matters of mere routine or urgency measures, necessary for the immediate preservation of the public health, peace or safety.*

#### DIRECT LEGISLATION. GENERAL AMENDMENT.

§1. On petition of 5 per cent. of the voters of the State (measured by the vote at the last preceding general election) proposing any law or amendment to the Constitution, or demanding the referendum on any law passed by the Legislature, the Governor shall cause such law or amendment to be submitted to the people at the next election, for adoption or rejection at the polls. A law enacted by the Legislature shall not go into effect till 90 days after passage and publication, nor until approved by the people, if within said 90 days a 5 per cent. petition for the referendum on it is filed with the Governor; *provided*, that this 90-day rule shall not apply to mere matters of routine which are substantially the same at every session, and that urgency measures necessary for the immediate preservation of the public peace, health or safety, may be passed by a 2/3 vote of the Legislature and may take effect at once, and shall be valid and effective during the time necessary to submit the matter to a referendum, if one is called for and until repealed or altered at the polls or by the Legislature.

§2. These provisions shall apply to cities and towns, reading *Municipality* for "State," *ordinance* in place of "law," *charter* for "Constitution," *mayor* for "Governor," *councils* for "Legislature," 30 days instead of 90 days.

§3. Subject to the popular veto as above, the Legislature may enact such laws as may seem needful to enforce these provisions, and establish such penalties for forging names on initiative and referendal petitions, or taking names of non-voters upon them, as may be required to protect the purity of such petitions.

§4. All officers in charge of printing ballots or otherwise connected with elections, shall accord every reasonable facility in their power and do every act necessary for the clear, concise and accurate printing of referendal questions upon the ballots, the thoro information of voters upon the questions to be decided, and the thoro working out of the substance and spirit of this amendment.

[It would be more in harmony with common usage to make the petitions returnable directly to the city clerks and the Secretary of State (or other officers in charge of printing ballots) instead of sending them to the Mayor or Governor; but we suggest



that the latter plan has some advantages in respect to the atmosphere and dignity of the petitions and the sentiment that gathers about them, and in respect to holding the executive (the most carefully selected officer in city or state) directly responsible for the due execution of the all-important referendum law.

The South Dakota precedent of 5 per cent. initiative and referendum petitions may be found too high in more populous States. If it so appears when direct legislation is put in operation it will be easy to reduce the per cent. for State petitions or petitions in very large cities, or adopt a fixed number as suggested on p. 300 in analogy to the law by which 10 citizens of a New England town may by petition have any municipal matter they choose put in the warrant and brought before the town meeting.]

## MUNICIPAL D. L. SPECIFIC.

### Referendum.

§1. Ordinances and acts of city councils (excepting matters of routine and urgent measures for public health or safety) shall not go into effect for 30 days after passage and publication, and, if within that time 5 per cent. of the voters of the city petition the executive for a referendum on any such act or ordinance, it shall not go into effect until approved by the people at the polls. Questions raised by such petitions shall be thoroly publisht thru newspapers and posters or equivalent means for at least three weeks and shall then be submitted at the next regular election, or at a special election 6 to 15 weeks after filing the petition, provided 15 per cent. of the city's electors ask for such special election and deposit funds to pay for it. The mayor or 1/3 of either council may order a referendum, and the mayor, with 1/3 of councils, may order a special election.

### Initiative.

§2. Any desired ordinance may be proposed for decision at the polls by 5 per cent. petition of the city's voters filed with the executive, publication and submission being governed by the same provisions as in §1.

§3. All grants, extensions or renewals of important franchises (such as water, gas, electric light, railway, telegraph and telephone privileges) *must* be submitted to the people.

§4. A measure rejected by the people cannot be again proposed the same year by less than 20 per cent. of the voters, nor substantially re-enacted by councils, except by 2/3 vote and then *must* go to the polls without petition; nor shall a measure approved by the people be altered or repealed without a referendum: *provided*, however, that councils by 2/3 vote may adopt urgency measures for the immediate preservation of the public peace, health or safety, to be valid during the time necessary to submit the matter to a referendum, if one is called for.

## Local Option.

§5. These provisions shall apply to any city upon their adoption by the electors, and the executive *may* and upon 5 per cent. petition *shall* submit the question of their adoption to the voters at the next election.

(If it is desired to make the provisions absolute and not subject to local option, the fifth section should be omitted.)

## CITY D. L. CRISP.

§1. Either Council may, and on petition of voters of the city amounting in number to 5 per cent. of the votes cast at the preceding city election, *shall* submit to the voters for decision at the next city election (or at a special election if so ordered by council or by 15 per cent. petition of voters) any question which might lawfully come before such council.

[A bill composed of this section all by itself (except of course the opening and closing phrases common to all bills) might prove an excellent first step where D. L. sentiment is not strong enough in the legislature to carry a more extensive measure. The gain will be greater however if a bill can be passed including one or more of the following sections. It is a good plan to have two or more bills introduced by different members, and get the best law the legislature is willing to enact.]

§2. The mayor may, and on petition as aforesaid, *shall* submit any municipal question at the next city election (or at a special election if he chooses or it is ordered by either council or by 15 per cent. petition).

§3. Ordinances or acts of councils shall not take effect for thirty days after passage and publication, nor until approved at the polls if a 5 per cent. petition for referendum thereon be filed within the thirty days: *Provided, however*, That this 30 day rule shall not apply to matters of mere routine and that councils by a 2/3 vote may adopt urgency measures necessary for the immediate preservation of the public peace, health or safety, which may go into effect at once and remain in force till repealed or modified by councils or by referendum.

§4. Petitions may be addressed to the mayor or either council and entered in the office of the city clerk, who shall record their nature and date of entrance and transmit them to the authority addressed. It shall be the duty of such authority and also the duty of the city clerk to see that questions duly called for are concisely and clearly printed on the ballots, and all officers connected with elections shall afford every reasonable facility and do every act within their scope that is necessary to carry out the spirit and purpose of this act.

[Sections 1 and 2 might be combined—*The mayor* or either council may, or \* \* \* shall \* \* \* (special election ordered by *mayor*

or \* \* ) any question which may lawfully come before (or be dealt with by) the legislative authorities of the city, or that one of them ordering or petitioned to order the referendum.]

See further under the next topic. The making of freehold charters, and the amending of charters by the people are applications of the principles of direct legislation.

## MAKING AND AMENDING MUNICIPAL CHARTERS.

The following brief forms will be found very effective. Form C being the most important and the one to be passed if possible. The others are valuable as partial measures which may be obtainable where so broad a law as C cannot yet be secured.

Form B offers a similar method of amending the charter of a city, or municipal constitution, within stated limits.

Form C gives cities and towns the right to make their own charters entire, subject to the state constitution, and to general laws relating to state interests,—home-made charters and municipal sovereignty.

Form D provides for municipal sovereignty in a specified sphere without the freehold charter provisions.

### B

#### Local Self-government rendered more Effective.

*A direct and simple method of amending city charters.*

## STATUTE OR AMENDMENT.

To provide for the amendment of city charters by direct action of the people.

*On petition of \_\_\_\_\_<sup>2</sup> voters of any municipality, filed with the executive or clerk of such municipality, asking the adoption of a specified charter amendment providing for \_\_\_\_\_<sup>3</sup> the said amendment shall be submitted to the voters at the next municipal election (occurring 30 days or*

<sup>2</sup> See note 1. Cities being usually of less population than states, the percentage may be higher but the stated number should be lower. For example, in a city of 25,000 people with perhaps 5000 voters, 10 per cent. or 500 signatures might be required. In a city of a million, however, with 200,000 voters or more, even 5 per cent. would be high. The tendency in this country so far has been to place the percentage higher than is best, but it is wise to obtain such legislation even if the percentage has to be put high to do it, for after the law is passed the way is open to the people to reduce the percentage at any time they see fit. Some conservative authorities consider 3000 signatures a sufficient requirement for Philadelphia, a city of 1,200,000 inhabitants, and over 230,000 voters.

<sup>3</sup> The field within which such direct amendment of the charter is to be authorized may be limited to a specific subject such as the local use of direct legislation, proportional representation, control of franchises, voting machinery, election and recall of local officers, etc., or it may be so broad as to include all municipal affairs. We give two examples of bills of this sort with the blanks filled in.

more after said petition is filed), and, if approved by a majority of the legal electors of the municipality voting upon it, such amendment shall become a part of the charter or organic law governing the municipality.

### B<sub>1</sub> AN ACT

**To establish Local Option in the use of the Initiative and Referendum.**

*Be it enacted, etc., as follows:*

*On petition of 3000 legal voters of any municipality (or of a number equal to 5 per cent. of the total vote cast at the last municipal election in such municipality) asking the adoption of a specified charter amendment providing for the initiative and referendum on municipal ordinances, contracts, franchises, etc., the said amendment shall be submitted to the voters at the next municipal election (occurring 30 days or more after said petition is filed), and if approved by a majority of the legal electors of the municipality voting upon it, such amendment shall become a part of the charter or organic law governing the municipality.*

(The same provision may be made a constitutional amendment.)

### B<sub>2</sub> CONSTITUTIONAL AMENDMENT

**To provide for direct amendment of city charters in respect to local affairs.**

*On petition of 3000 legal voters of any municipality (or of a number equal to 5 per cent. of the total vote cast at the last preceding municipal election in such municipality) asking the adoption of a specified charter amendment providing for any matter within the realm of local affairs or municipal business as distinguished from state interests, the said amendment shall be submitted to the voters at the next municipal election (occurring 30 days or more after said petition is filed), and if approved by a majority of the legal electors of the municipality voting upon it, such amendment shall become a part of the charter or organic law governing the municipality.*

## C

### CONSTITUTIONAL AMENDMENT.

**To enable cities and towns to make their own charters.**

#### MUNICIPAL HOME-RULE.

**1. Any city or town may frame a charter for itself. On motion of the local legislative authorities or petition of 3000 of the legal voters (or a number equal to 5 per cent. of the total vote cast at the last preceding election in said city or town) to the Executive, 15**

freeholders shall be elected to draw up a charter to be submitted to the people at the next election. Such charter shall be publisht thoroly to the citizens at least one month before said election, and, if adopted at the polls, shall become the organic law of the municipality subject to the constitution and laws of the State under the limitations hereinafter stated.

2. Such charter may be amended by referendum vote on the initiative of the mayor, or councils, or petition of 3000 of the legal voters (or a number equal to 5 per cent. of the legal voters in said city or town) to the Executive.

3. Local franchises and municipal services such as private corporations may engage in, and all affairs of of a purely local business nature, shall be given over to **MUNICIPAL SOVEREIGNTY** free of legislative interference. In their relation to State interests municipalities shall remain fully under the control of the legislature acting through general laws, or through such special laws as may be asked for, or adopted, by referendum vote in the municipalities affected.

Under such a charter law, the city will be completely free to act in respect to interests that are distinctly local, and in respect to state interests, as order, education, health, etc., it will be free to act its will so long as it does not run counter to state or national law. It must provide the education, sanitation, etc., required by state law, but it may provide more than the state law requires,—it may go beyond state requirements except where excess is prohibited for the sake of uniformity, etc. The amendment gives municipal sovereignty in local affairs, and in other affairs it gives municipal initiative and freedom subject only to the constitution and general laws.

If it should seem possible to secure the freehold charter provisions but not possible to pass the municipal sovereignty clause, § 3 and the last five words of § 1 may be omitted from the bill.

If the legislature is not willing to adopt a resolution proposing an amendment that will give full liberty in the making of home-rule charters, it may be willing to sanction a freehold charter amendment joined with a stipulation that the charter must be approved by the legislature before going into effect, or linked with a few broad limitations and definite specifications as to form of organization, etc. In such case the framers of the amendment may be aided by the following suggestions concerning



## ADDITIONAL PROVISIONS.

That may be advisable in connection with freehold charter amendments.

*Every city shall elect a Mayor or chief executive and a Council of one or two chambers, in such manner as may be prescribed by law, and at a time separated by at least one month from State and National elections.*

*It shall keep accounts in accordance with forms and methods prescribed by the State.*

*It shall establish and maintain such system of police, courts, prisons, schools, sanitation and care of the poor, as may be required by State law.*

*It shall adopt a system of civil service regulations whereby, so far as practicable, (1) all appointments and promotions including laborers shall be made according to fitness and merit, and (2) removal or degradation shall be only for cause and subject to appeal to an impartial tribunal.*

*It may adopt any system of direct legislation, proportional representation, direct nomination, or automatic voting it may deem advisable.*

*It may purchase or construct property for any lawful purpose, or take by will or gift, and may hold, use, lease, mortgage or sell such property and deal with it in every way like an individual owner, except that no public utility plant or franchise shall be sold, leased or encumbered without a referendum vote to that effect.*

*The Legislature shall enact a brief and comprehensive Municipal Act to carry out these provisions and establish such other general safeguards as State interests may require.\**

## D

### MUNICIPAL SOVEREIGNTY.

#### And freedom from legislative interference.

Municipal sovereignty in respect to local affairs may be secured without the freehold charter provisions by embodying section 3 of the preceding form in a constitutional amendment by itself. A smaller but still very important degree of municipal self-government or freedom from legislative interference is secured by an amendment placing the control of local franchises in the municipality, or providing for local assent to special legislation, or both. For example:

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\*It is usual in our State laws to specify a municipal debt limit, but such limitations are frequently productive of the most serious inconvenience and delay of improvements, and it is difficult to imagine why a city should be tied up with a debt limit of 5 or 10 per cent. any more than a state or nation should be so fettered, or why a state should limit a city in this way any more than the nation should limit a state.

## FRANCHISES 1.

*Local franchises shall be deemed within the sphere of local sovereignty free of legislative interference, and the municipality may, under check of the referendum, deal with them as it sees fit. All grants, extensions and renewals of such franchises shall be made by the municipality, under such check, and shall be subject to regulation and control by the municipality.*

## STREET FRANCHISES 2.

*Each city and town shall have full control of its streets, and all grants, extensions or renewals of water, gas, electric, railway, telegraph, telephone, or other important franchises and privileges therein shall be on such terms as the local authorities may prescribe, subject to the referendum at the option of the executive, or  $\frac{1}{3}$  of either council, or upon petition of 5 per cent. of the voters.*

## STREET FRANCHISES 3.

*Street franchises and local public works of a business nature such as water and lighting plants, street railways and telephone exchanges, shall be matters of sole municipal sovereignty beyond the interference or control of the Legislature, and subject only to this constitution: Provided, that all ordinances or acts granting, extending, or renewing such franchises or providing for the construction, purchase, sale or lease of such works, shall be subject to the referendum upon petition of 5 per cent. of the voters of the municipality filed in the executive office within 30 days after passage and publication of said act or ordinance.*

## SPECIAL LEGISLATION.

*Special legislation affecting municipalities shall be invalid, except so far as asked for or adopted by the municipality affected. For the purposes of this provision, cities and towns are divided into three classes; 1st, those below 8,000 population; 2d, those between 8,000 and 100,000, and 3d, those above 100,000.*

Sometimes one of these single-minded provisions can be passed where nothing can be done with the broader measures. Work to get whatever can be obtained now, even if it be only a clause against special legislation. Every step in the right direction makes future progress easier. Even a *statute* embodying the substance of one of these provisions is worth a great deal to the cause of municipal liberty. But an amendment is better and the full constitutional amendment of the last section (C) is the thing to get if possible. Perhaps the best plan of all is to get both the statute and the amendment—get the statute for immediate use, and at the same time take the first steps toward getting a constitutional amendment.

## PART III.

### SUGGESTIONS FOR A MODEL CHARTER.

*Suggestions that may be Useful in Making Charters under the Proposed Home-Rule Amendment (Appendix I. C.).*

*Or, if the Legislature is Unwilling to give Cities full Liberty to Make their own Charters, it may still be Willing to Adopt a*

*Liberal Municipal Corporations Act,*

*Prescribing in Concise Terms the Main Outlines of City Organization, fixing the Features in respect to which Uniformity is deemed desirable and leaving the rest to be determined accordiny to the judgment of each particular city.*

*In such case the following provisions (with some modifications and additions which will occur to any legislator dealing with the matter) may be found valuable as suggesting the means of framing a liberal and flexible law.*

The dual nature of a municipality must be kept clearly in mind. It is an agency of the State in respect to state interests, and it is also in business on its own account.

In respect to order, education, general commerce, health, etc., it has interests common to the whole state, and in dealing with them acts for the state as well as for itself. Within such agency and so far as it may be seriously affected by the form and conditions of the city government, it is right for the state to prescribe by general laws what the city may do and how it may organize. But in respect to such matters as street paving, local transit, municipal franchises, etc., it is clear that the local interest is paramount, and full freedom within the limits of just dealing should be accorded the city in such affairs. Even where the state interest is strongest as in matters of justice, education, defense, etc., the local interest is still stronger. The citizens of a city are more deeply interested in the order, education, and safety of the city than the rest of the state can possibly be. By the fundamental principles of free government the power should go with the interest, and the city should have full liberty to work out its own well being in its own way subject to such general limitations as may be necessary to conserve the vital interests of the state.<sup>1</sup> It is right for the state to set

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<sup>1</sup> The contrary system now in vogue whereby the city has no rights of its own but is the "creature of the legislature," as our law-books put it, is one of the principal reasons for the mismanagement of our cities, the corruption of

up general standards in respect to state interests below which no municipality must fall in dealing with such interests, but beyond which any city or town may go as far as it chooses. As a matter of fact cities frequently do exceed state requirements in provision for education, fire protection, etc.

The charter of a city bears the same relation to the city and its government that the constitution of a state bears to the state and its government, and ordinances are to the city what statutes are to the state. The municipal constitution like the state constitution should be simple, brief, comprehensive—a statement of elementary facts and principles, an outline of municipal policy, the framework of local government. The details should be left for the ordinances. This will make the government clear, strong and flexible—easily understood and easily molded as occasion may require.

With this thought in mind in addition to those expressed in preceding pages respecting municipal sovereignty in local affairs, and free initiative in all affairs subject only to the constitution and general laws relating to state and national interests, we present the following outline as a suggestion of what may be done in the way of reducing a charter to its lowest terms, and making it the simple, concise and vigorous instrument it ought to be. Criticisms and suggestions from our readers in regard to this outline are specially requested in order that we may render it more perfect in future publications.<sup>2</sup>

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our legislatures and the lack of municipal patriotism among our people. It would be manifestly absurd for the National Government at Washington to control the internal affairs of New York, Philadelphia or Chicago, deciding that one street shall be paved with asphalt, another with stone; that one company should have a telephone franchise, another a gas privilege and a third enjoy the street railway monopoly; that one city officer should be elected and another appointed; that the salary of one city official should be \$5,000, another \$10,000, and the terms 1 year, 2 years, 3 years, etc. Our people would regard such control as despotic interference of outsiders in affairs of local concern. Yet it is only a little less absurd to allow a Legislature in Albany, Harrisburg or Springfield to determine such matters for New York, Philadelphia or Chicago. The legislature determines whether or no a city may own and operate its street railways, telephones and water service, how wide its streets shall be, what officers it shall have. Down to the minutest detail our Legislatures may and do regulate the organization, methods, powers and activities of our cities. If it were not for the blinding power of usage we should regard this, also as despotic control of outsiders in local concerns, and would start a crusade to free our cities from their "abject slavery to legislative despotism."

<sup>2</sup> Dr. Taylor desired an outline or skeleton of a city charter to send to legislators and other progressive men along with the reasons for municipal liberty and the proposed forms of constitutional amendment and statutory enactment intended to secure such liberty, so that if the reader were disposed to take a part in this great movement for truer self-government, he might have before him the model of a liberty charter whereby he might attain a clearer idea of the work to be done in this field from start to finish. The intricacy and difficulty of the task and the lack of any satisfactory precedents made me very reluctant about attempting to draw a model charter. But the Doctor mildly persisted as he always does when he knows he has a good idea, and finally I said I would make the effort provided the thing should not be called "a model charter," but only "suggestions for a model charter" to which the Doctor readily assented, that being in fact exactly what he wanted.

So I gathered a pile of freehold charters adopted in western cities under the home-rule amendments, got out my notes of the various municipal acts or statutory charters in our States, analyzed the "Municipal Program" put forth by Dr. Albert Shaw, Hon. Clinton Rogers Woodruff, Prof. Rowe of Pa. University, Prof. Goodnow of Columbia, and other eminent authorities, made a list of the principles and methods successfully applied in public affairs in England, Germany, Switzerland and New Zealand, and



*SUGGESTIONS FOR A MODEL CHARTER.*

## CHARTER OF .....

Name of City.

## ARTICLE 1. THE CITY.

§ 1. Name and boundaries of the city.

§ 2. Wards or divisions of the city to be fixed by ordinance and changed as occasion may require.

## ARTICLE 2. POWERS.

§ 1. The city shall have entire control of its streets, local franchises and public utilities, roads, parks, fire, water, gas and electric light services, street railways, local telephone exchange and other distinctly municipal affairs. In respect to safety, order, health, education, general commerce and communication, and other state interests the city shall be free to act in any way it deems best provided it does not run

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In our own cities, States and nation, and lastly set down such possible methods as I could think of in aid of the great purposes of municipal sovereignty in local affairs, real government by and for the people, the merit system of civil service and public ownership of public utilities. Then I crossed off clause by clause what seemed superfluous or objectionable or clearly unattainable, classified and condensed what remained, and so worked out a charter form which was submitted to a referendum (the Dr. was the referendum as well as the initiative in this case) and so fortunate was the suggested charter that it was adopted on the first ballot by unanimous vote with no change but in three or four words of Art. 8. and Art. 10.

It will be found very unlike the complex, verbose municipal acts that cumber the statute books of so many States. It is much more simple and concise than even the newly adopted freehold charters of St. Louis, Kansas City, Los Angeles, San Francisco, etc. The habit of putting in city charters a large amount of matter which ought to be left to the ordinances makes such charters needlessly cumbersome. For example it is usual to describe the wards in full in the charter, filling sometimes several pages with the details of a subject that is in flux and must be dealt with from time to time by ordinance and should be left to ordinances from the start under a broad charter clause. If brevity is really the soul of wit, our suggested charter is certainly a witty document (tho you might not discover the fact without the aid of this time-honored maxim) and it contains, moreover, many novel features such as the overlapping term for appointive offices of a non-political nature (a new plan of cooling the plunder motive and barring the spoils system now presented for the first time, so far as I am aware), the civil service court, the expanded system of mutual checks between administrative departments and between legislative and administrative officers, the popular recall and the definite sphere of municipal sovereignty (the first attempt I believe to define the sphere of local government, or reduce the principle of the popular recall to definite phrasing in a charter provision), direct nominations, majority choice, direct legislation, proportional representation, etc. The substance of the provisions relating to public ownership of public utilities is taken from the new freehold charter of San Francisco—a free rendering and much condensed, but retaining the spirit and essence. The provision for gradual extinguishment of the capital of public service plants was suggested by the policy of Prussia and Belgium and other countries in respect to national railways and other public utilities, and the practice in many of our own cities in respect to water and electric plants. The industrial arbitration clause and the co-operative construction of public works find abundant justification in the wonderful success of these methods in New Zealand. The safeguards against corrupt practices and the power of executive and legislative authorities to push each other out of office and carry the whole policy of the government to the people, are applications of principles that have proved of the utmost value



counter to state law. Where it touches National interests the city is subject to the constitution and laws of the United States. Where it touches state interests it is subject to the constitution and laws of the State. But in local business and affairs distinctly municipal the city is sovereign. In this field it shall act without interference or control by the legislature. And beyond this field it shall be free to act within the limitations of state and national law.

*Municipal  
Sovereignty.*

Under this power the city may hold, use, mortgage, lease or sell property, real and personal, for any lawful purpose; own and operate any public utility; annex territory with assent of the people of such territory and of the city upon referendum vote of each; levy and collect taxes, and do any other act not inconsistent with paramount law as above stated.

### ARTICLE 3. GOVERNMENT.

**The People, Mayor, Council, Appointing Power, Removal, Popular Recall, Council's Power, Etc.**

§ 1. The government of the city, except so far as exercised by the people directly, shall be vested in a Mayor and Council subject to the limitations hereinafter expressed.

in England and the Australian republics. The Governor's power to remove the Mayor is from the Municipal Program, and seems clearly right. The city government with the Mayor at its head is the agent of the State as well as of the city, and both principals should have the power of removal. The sections relating to the controller, the debt limit, civil service and publicity, also owe something to the Program, tho they do not follow it exactly and entered the preliminary analyses from other sources as well as from the Program. The Program charter (which is a suggested municipal act or statutory charter) limits the city to a council of one chamber. For a State enactment the provision of the Minnesota Freehold Charter Amendment allowing a city to have one legislative body or two seems preferable. The idea of having two councils is that one may act as a check upon the other. Where direct legislation is adopted such a check would seem no longer necessary, but the question of one chamber or two should be decided by the city, not by the State.

The "Municipal Program" was adopted by the National Municipal League in Nov., 1899. It consists of 10 large pages of proposed constitutional amendments and nearly 40 pages of a proposed Corporations Act or statute charter. This Program, tho of the great value we believe, seems too long, and omits some very important provisions while adopting some others that appear to us objectionable; for example we can not see why the right to make home-rule charters should be confined to cities of 25,000 or more. Why should a city of 10 or 15 or 20 thousand people be denied the right of self government? California already permits any place of 3,500 people or more to make a freehold charter, and Minn. allows *any* city or town this right of municipal liberty. Again we think it a mistake to give the mayor power to appoint and remove at will all heads of departments except the controller, and all officers and agents in the administrative service, etc. It is well to concentrate the attention of voters at elections upon few officers, but there is such a thing as carrying the process too far. We think there are other officers who should be elected directly by the people besides the mayor and council. It is well to fill by appointment administrative offices where trained experts are needed, but it is a mistake to limit the terms in these offices so that they all become vacant just as a new mayor comes in. City engineer, health officer, treasurer, assessor, superintendent of schools, fire marshal, street commissioner, chief of the water, gas, electric light, or transit departments and all the rest, at the disposal of the mayor at once upon election, offer large temptations to organize and carry the election for plunder. The power of arbitrary removal in respect to such officers seems also very objectionable. Some of the suggestions as to the controller are ex-

§ 2. The mayor shall be elected by the people by majority vote under an adequate system of preferential voting,<sup>3</sup> and shall hold for 2 years unless sooner removed by death or the Governor or the people.

The mayor may present measures to the council and may be present at council meetings, and address the council but may not vote. He may veto any ordinance passed by the council (see below). He may present measures to the citizens directly at the polls at a regular election or a special election if he deems it necessary. Subject to the limitations hereinafter expressed and with the approval of the council the mayor shall have power to appoint all heads of departments. He may remove the city attorney and chief of police at will, and upon good cause shown at a fair public hearing he may dismiss any other head of department within the mayor's appointing power. He may also institute or require the city attorney to institute proceedings in the Civil Service Court for the removal of any officer or employee of the city.<sup>4</sup>

In case of vacancy in the office of mayor, or his absence or disability, the President of the Council shall have the powers and perform the duties of mayor except that he shall not remove any officer or employee until he has occupied the chair uninterruptedly for 30 days.

*Removal—four methods.* In case of entire inability or gross misconduct or incompetence the mayor may be removed by the Governor after a public hearing. The council by a 2/3 vote may at any time order a new election for mayor to take place not less than 30 nor more than 40 days after such vote is published. The mayor may issue an order calling for the election of a new council in 30 to 40 days after such order is published.<sup>5</sup> A petition of recall signed by legal

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cellent but the civil service commissioners are subject to removal at the pleasure of the mayor, which makes it practically impossible for them to enforce the rules as to appointments and removals against the very person who, under the Program, has the great bulk of appointments and removals in his hands. There is no civil service court or other adequate means of enforcing the law.

<sup>3</sup> A system permitting each voter to express his relative preference for each of the candidates by marking them in the order of his preference, 1st choice, 2d choice, etc., so replacing the plurality rule, or minority government, by majority choice. See Chap. VI, "City for the People," Equity Series, 1520 Chestnut St., Philadelphia.

<sup>4</sup> The mayor is the agent of the people to enforce the law and administer the government. To do this effectively the police and legal departments which control the machinery of the law must be in his control. But the city engineer, street commissioner, fire marshal, superintendent of schools, chief of the water department or electric light, or municipal transit department, health officer, assessor, treasurer, city clerk, coroner, etc., are engaged in work that bears little if any relation to politics. Such officers should be experts in their departments and have a tenure far above the whim of any official.

<sup>5</sup> These provisions, under which either mayor or council may push the other out of office in 30 days (so taking the whole government and its policy to the people) embody the principle that has been found of such utility in England and Australia in giving the people fuller consideration and more vital control over their government, both legislative and administrative.

voters of the city to a number equal to a majority of the total vote cast for mayor at the last preceding mayoralty election shall be equivalent to an order for a new election of mayor 30 to 40 days after the filing of such petition. He may also be removed by the Civil Service Court.

§ 3. The council <sup>6</sup> shall consist of members elected by the people at large, one member to each — voters. It may be dissolved by order of the mayor or by popular recall in the manner set forth in § 2.

It may elect its own officers, divide the city into wards, establish such departments and offices as it may deem best; choose committees to watch the operations of each department and consult with the department head appointed by the mayor, levy and collect taxes, vote appropriations, grant franchises and exercise all the legislative powers of the city, subject to the veto of the mayor and the control of the people through the referendum.

#### ARTICLE 4. ORDINANCES.

##### Mayor's Veto ; Direct Legislation, Franchises, Etc.

§ 1. The term "ordinance" shall include every contract, grant, resolution, act or measure, passed by council or submitted to the legislative discretion of the people, or their agents in council. Ordinances shall be classified as *general ordinances* corresponding to general laws, and *special ordinances* consisting of routine orders (selection of council officers, ordinary levies and appropriations within established standards, votes upon the mayor's appointments and upon dismissals, etc.), resolutions concerning the decease of distinguished men, acts relating to one individual or company, personal orders, etc.

§ 2. Every ordinance passed by council shall be sent to the mayor. Within 10 days after receiving it (or at the next meeting of council after the expiration of the said 10 days) the mayor shall return it with his signature or with his veto and the reasons for disapproval. If not returned within said time the ordinance is regarded as signed. If vetoed the council may pass it over the veto by a 2/3 vote. After an ordinance is passed and signed by the mayor, or passed over his veto, it shall be published at least once a week for 4 weeks in one or more newspapers designated for the purpose by the mayor who

<sup>6</sup> With the check of the referendum a single chamber is sufficient and greatly simplifies the government.

may make a general order on the subject, and an additional special order in any particular case if he deems best.

§ 3. Ordinances other than established routine, or urgency measures necessary for the immediate preservation of the public health, peace or safety, shall not go into effect for 30 days after passage and official publication.

*The Referendum.* . and if during that time — legal voters of the city sign a petition demanding the referendum on any such ordinance, it shall be submitted to the people for final decision at the polls.

§ 4. Ordinances may be proposed to council or to the voters at the polls by the mayor, controller, superintendent of schools, director of public works, or civil service commissioner. One third of the council may order any ordinance or proposed ordinance to be submitted to the

*The Initiative.* people, and on petition of — of the legal voters of the city proposing a specified ordinance or amendment, it shall go to the polls together with the action of council upon it, if any.

§ 5. Council shall within a reasonable time adopt such ordinances as may be needed to determine the details of municipal action under this charter and carry its policy into effect, and all such ordinances relating to direct legislation and the methods and details of its use shall be submitted to the people and approved at the polls before going into effect.

§ 4. No franchise shall be granted for a longer term than 20 years, and no franchise grant shall be valid till approved by the people at the polls.

*Franchises.* Franchise grants may stipulate that at the end of the term the property shall revert to the city free of debt, or at the arbitration value of the physical plant, or contain any other reasonable provision on this subject, and whatever other terms the city may deem best.

No public plant shall be sold, leased or encumbered except upon a referendum vote to that effect.

## ARTICLE 5. NOMINATIONS.

§1. Nominations of elective officers shall be made by petition signed by — qualified voters of the city and filed in the clerk's office.

## ARTICLE 6. ELECTIONS.

Separation of State and Municipal Elections, Officers and Boards Elected,  
Proportional Representation, Majority Choice, Ballot  
Machines, Corrupt Practices.

§ 1. *Municipal elections separated from state and national elections* by at least 1 month, shall be held at such



times and places and in such manner as may be designated by ordinance.

§ 2. The *officers elected* for the city shall be a *Mayor*, and *Council*, as above described, a *Controller*, *School Board*, *Director of Public Works*, and *Civil Service Court*, and *Commissioner* (see below), and such other officers as may be listed for election by statute or ordinance.

§ 3. A system of *Proportional Representation*<sup>7</sup> may be adopted by ordinance to be used in the election of the Council, School Board, Civil Service Court and other official groups that may be required. Such system may be applied to all the members of council or other group or to part only, the rest being elected on the district plan.

§ 4. *Majority Choice* or *Preferential Voting*<sup>8</sup> may be adopted by ordinance to replace the plurality rule in the election of single officers.

§ 5. The *Automatic Ballot* may be established by ordinance providing for the purchase of suitable voting machines, approved by the state, or in the absence of designation by statute, the city may buy such machines as it deems satisfactory after thorough testing on behalf of the city.

§ 6. The Registration of Voters shall be conducted in the manner prescribed by law and ordinance.

§ 7. A candidate-elect by or on behalf of whom bribery or other corrupt practice is used in the election cannot take his seat.<sup>9</sup> This provision may be enforced in the regular courts or in the Civil Service Court.

## ARTICLE 7. THE CONTROLLER.

§ 1. The Controller shall be elected by the people and shall hold for 4 years unless sooner removed by the Civil Service Court or popular recall.

§ 2. He shall audit all bills and demands against the city, examine the accounts of every department and report any default or delinquency he discovers in the accounts or conduct of any officer. He shall have power to settle claims against the city, and may examine under oath persons who present claims, and other witnesses.

No payment of city funds shall be made except upon draft countersigned by the Controller after he has audited the claim and found it justly due.

<sup>7</sup> See Chap. V, "City for the People," Equity Series, 1520 Chestnut St., Philadelphia.

<sup>8</sup> See reasons and methods Chap. VI, "City for the People."

<sup>9</sup> This is the principle that has proved of such great value in England See Chap. VIII, "City for the People."



## ARTICLE 8. THE SCHOOLS.

§ 1. The supervision and management of the schools shall be vested in a superintendent appointed by the mayor (with assent of council), and a board of — members elected by the people to hold for 6 years,  $1/3$  being elected every 2 years. The board may by  $2/3$  vote dismiss the superintendent.

§ 2. The board shall have charge of all school property. It shall lay down courses of study and make regulations subject to the veto of the superintendent in like manner as between mayor and council.

§ 3. Subject to such regulations and the Civil Service rules the superintendent shall have charge of the hiring of teachers and the supervision and direction of instruction in the schools.

§ 4. Any teacher may be dismissed by the board subject to appeal to the Civil Service Court.

## ARTICLE 9. PUBLIC WORKS.

**Director of Public Works, Public Ownership, Publicity of Corporation Accounts, Etc.**

§ 1. A Director of Public Works shall be elected by the people to hold for 4 years unless sooner removed by the Civil Service Court or popular recall.

§ 2. It shall be the policy of the city to own and operate for the benefit of the whole people all local public utilities. To this end the Director of Public Works shall make or cause to be made careful estimates of the value and cost of construction and operation of such plants as exist or are desirable for the carrying on of such services. For this purpose the Director and his agents shall have full access to the books and documents of any corporation, firm or person engaged in such service in the city, and may summon witnesses and examine them under oath subject to the penalties of perjury if they testify falsely. The information so obtained shall be reduced to clear and simple form, and both in full and in its reduced form, shall be kept permanently open to public inspection in the Director's office at all times during business hours.

§ 3. The Director shall from time to time submit to the council and to the voters at the polls propositions for the purchase or construction of public service plants.

§ 4. Debts incurred by the city for such plants shall not be charged against the debt limit except so far as they ex-

ceed the fair market value of the property they represent—the structure and the franchise are both assets in the hands of the city balancing an equivalent value in securities.

§ 5. It shall be the *policy of the city to extinguish the capital* obligations resting upon public service plants in order that they may become completely the property of the people free of debt and render service to the community at the lowest cost. To this end measures shall be taken, through the adjustment of rates or otherwise, to gradually extinguish said obligations so that the plant may be free in 20 to 50 years from this time, or, in case of future undertakings, from the time of construction or acquirement by the city, or in a less time than 20 years if so voted by the people on a referendum.

§ 6. The administrative heads of departments of public works such as water, gas, electric light, transit, streets, parks, etc., shall be appointed by the mayor with assent of council, but may be removed by the Director of Public Works at will, as well as by popular recall or by the Civil Service Court or the mayor upon hearing.

#### ARTICLE 10. THE CIVIL SERVICE.

§ 1. The *merit system* of appointment and promotion with tenure during good behavior and efficient service shall be the settled policy of the city in respect to the employees of every department.

§ 2. A *Civil Service Commission* shall be elected by the people for 4 years, and three judges of a *Civil Service Court*, to hold 6 years, one to be elected every 2 years.

§ 3. These four persons shall draw up and submit to the people a system of rules to carry out as far as practicable the principle set forth in § 1, making it a part of the plan that, (excepting private secretaries and immediate personal assistants of heads of departments, and similar officials) any officer or employee removed or degraded shall have an appeal to the Civil Service Court for reinstatement unless good cause be shown for his dismissal, provided of course that this is not understood to overrule express provisions in this charter in respect to removal in particular cases.

§ 4. It shall be the *Commissioners' duty* to watch the conduct of every department of the city and see that the Civil Service Rules are enforced in good faith according to their spirit and purpose. He shall have full access to the records and offices of all departments and may examine under oath any officer or employee from the mayor to a laborer on the

streets. In case of violation of the law he may notify the offender to make good the breach and conform to the law in future. If this proves ineffective or he thinks best to proceed in court at once, he shall bring the case before the Civil Service Court, which may, on the first offence, fine, im-

*Power of Civil  
Service Court.*

prison or dismiss the offender or impose any two or all three penalties, but on the second offense shall dismiss the guilty official. The action of the court shall not be confined to enforcing the merit system in respect to the appointment, promotion and retention of employees. It may dismiss any officer or employee of the city for misconduct or incompetence, and proceedings for this purpose may be instituted by the Mayor, City Attorney, Controller, Superintendent of Schools, Director of Public Works, or other head of department, and upon affidavit that a department head has been requested to bring such action on reasonable cause and has refused, any ten citizens may institute such proceedings in said court.

Any employee or group of employees or any officer may appeal to the court to prevent or punish a breach of the Civil Service Rules, or to decide any question relating to hours,

*Industrial  
Arbitration.*

wages or conditions of service, and its decision after full hearing of all sides, shall have the force of law subject only to the referendum if a petition for it is filed in the court within 30 days after such decision is published.

§ 5. The Commissioner shall secure and keep on file in the Tribunal open at all times to public inspection, a correct list of all officers and employees of the city,

*Publicity.*

with a statement of the title and remuneration of each, the nature of his duties, date of election, appointment or employment with the name of the person appointing or employing him, and date of termination of service with the reasons therefor.

## ARTICLE 11. OTHER OFFICERS.

§ 1. A chief of police, and a city attorney shall be appointed by the mayor (with assent of council) for 2 years.

§ 2. Judges of the city courts established by ordinance shall be appointed by the mayor (with assent of council) to hold for life unless dismissed by the Civil Service Tribunal for inability, misconduct or incompetence, or removed by the popular recall.

§ 3. A superintendent of schools, chief of the water department, electric light, street railway or other municipal

service the city may own and operate, street commissioner, fire marshal, engineer, health officer, city clerk, treasurer, assessor, collector, coroner, or other officer required by law or ordinance, shall be appointed by the mayor (with assent of council) to hold for 3 years as the first term, subsequent terms being 2 years each, so that the end of such term may fall in the middle of the Mayor's term each time.<sup>10</sup>

*The Overlapping Term.*

## ARTICLE 12. SALARIES AND WAGES.

§ 1. Salaries of officers shall be fixed by ordinance but shall not be changed upon any officer during his term.

§ 2. Subject to Article 10, § 4, the wages of employees shall also be determined by ordinance and may be changed upon 3 months' notice.

## ARTICLE 13. REMOVALS.

By the Mayor, Director of Public Works, Department Heads, Civil Service Court and Popular Recall.

§ 1. For removals of and by the Mayor see Article 3, § 2.

§ 2. For removals of and by the Director of Public Works see Article 9, § 1 and § 6.

§ 3. For removals by the Civil Service Court see Article 10, § 4.

§ 4. The head of a department may for good cause dismiss any employee under him subject to appeal to the Civil Service Court and its discretion as to costs under the Civil Service Rules.

§ 5. A petition signed by a number of legal voters of the city equal to a majority of total vote for any city office at the last preceding municipal election may require a new election for such office.

*Popular Recall.* In respect to any non-elective officer or employee a petition for dismissal signed by a number of voters of the city equal to a majority of the total vote cast at the last preceding municipal election, shall be mandatory upon the head of the department involved and

<sup>10</sup> The object of overlapping the term of the mayor is to give a year for any partisan feeling awakened in the campaign to die away, and for the mayor to become thoroly acquainted with the character and capacity of the various department heads. Under such circumstances the mayor is much less likely to be elected on a spoils basis and is also less likely to fill the offices with his political or personal friends than is the case where the offices go vacant at the time he comes to the chair. Thus we gain the advantages of the appointment system in securing scientific experts instead of politicians for the heads of departments and at the same time reduce to the lowest terms the dangers of the appointing power.

The ideal we think would be that such officers as superintendent of

upon the Civil Service Court, and shall be good and necessary cause for an order of removal.

#### ARTICLE 14. IMPEACHMENT.

§ 1. Any judge or head of department, elective or appointive, may be impeached for gross misconduct or maladministration. Such impeachment may be brought by the City Attorney or any 100 legal electors of the city, and shall be tried before the council, whose adverse judgment shall not extend beyond removal from office and disqualification for any future office, honor, or employment at the hands of the city.

#### ARTICLE 15. CONTRACTS.

Direct Employment, Co-operative Contracts, Etc.

§ 1. It shall be the policy of the city so far as practicable to substitute direct employment, and contracts with co-operative groups of workers, in place of contracts with middlemen and ordinary non-co-operative contractors.<sup>11</sup>

#### ARTICLE 16. AMENDMENTS.

§ 1. Amendments to this charter may be proposed by the mayor, council, or any department head, or by petition signed by — legal voters of the city.

§ 2. Such proposal shall be submitted to the people at the polls and if adopted by a majority of those voting upon it shall become a part of the organic law of the city subject to the limitations set forth in Article 2.

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schools, head of a public utility, street commissioner, fire marshal and similar officials should hold during good behavior and efficient service. Their positions demand expert knowledge requiring many years of special training and experience, and their departments are in no sense political but are business enterprises in which a steady policy and entire freedom from anxiety about elections or tenure of office are of the utmost importance. It is probable however that a 3 year term (overlapping the mayor and council) and removal only for cause are about the best attainable provisions in the present state of public opinion.

<sup>11</sup> The principle of co-operative labor on public works has been applied with the most important results in New Zealand, the men making average pay nearly double the average wages received under the old system, at the same time that the buildings, railroads, etc., cost the state less than under the contract system. See Henry D. Lloyd's "Newest England."



## APPENDIX II.

### *Notes Made after the Chapter Proofs were Paged.*

A. Gas. 1.—*The Haverhill Gas Co.* charges \$1.10 per thousand and says that its operating expenses are 71 cents per thousand and that its plant is worth over \$400,000, or about \$4.3 per thousand feet of annual output. The actual amount of money that has been paid in by the corporators is only \$75,000; wherefore if the company's statement of value is correct, \$325,000 or more of profits have been put into the plant after paying an average of 10 per cent. dividends a year. The people have been made to pay large interest on the actual investment and in addition have paid the cost of new construction and improvements quintupling the value of the plant. It seems clear that at least \$325,000 of the Haverhill plant really belongs to the people; it has been built with their money; money taken from them by unjust rates; rates yielding 10 per cent. plus a large surplus are certainly unfair. If the people wish to buy the plant they should be allowed to do so on payment of \$75,000, less depreciation. And until they elect to buy the plant rates should be reduced so as to cover operating expenses, taxes, depreciation (on the private capital in the plant at least) and a fair interest on the present value of the investment put into the plant by the capitalists (i. e. interest on \$75,000, less depreciation.)

At present (Nov., 1899) the city is asking the Gas Commission for immediate reduction of rates to 90 cents per thousand, which, on the company's own showing, will yield a good profit on the real investment of the owners. Last year the company paid dividends equal to 50 per cent. on the paid-in capital and had a surplus of 20 per cent. more, making 70 per cent. profit on the investment really made by the capitalists. The city also asks permission to see the returns made by the

company to the Gas Commission, believing that the alleged operating cost of 71 cents per thousand is much above the truth. This request the Commission has denied. The legislature will be asked to pass an order preventing the suppression or hiding of returns in the office of this public Commission, and allowing public inspection of said returns as of all other public records. For further particulars see p. 539.

#### 2. *Gas at 50 Cents and a Big Bonus Offered for the Franchise.*

New York, Dec. 19. The Common Council of Passaic, N. J., was about to close a contract with ex-Mayor Andrew McLean, who guaranteed to supply gas in Passaic at 50 cents a thousand, maintain fifty-three gas lamps for the city and furnish a different lamp at about two-thirds their present cost by means of a gas plant controlled by Dr. Chisholm, of San Francisco. Upon this the United Gas Improvement Co. offered to pay \$20,000 for seventeen years to the city, \$20,000 to each of the hospitals, \$28,000 for a new school, will give the police and firemen's relief fund \$10,000 each, and will also furnish Passaic city with 50 cent gas and private consumers at the same rate. (No wonder the U. G. I. Co. strained so many nerves to get the right to sell gas at *one dollar* in Philadelphia. The Passaic offer created a big surprise, and caused no action to be taken on the gas question. The actual cash outlay provided for in the United Gas Company's offer is \$928,000 besides the penalties incurred.—(Philadelphia Ledger.)

If the United Gas Improvement Co. can afford to furnish 50 cent gas in Passaic and pay a large bonus for the privilege, what sort of monopoly profits is it making on 100 cent gas in Philadelphia, 170 cent gas in Trenton, etc.?

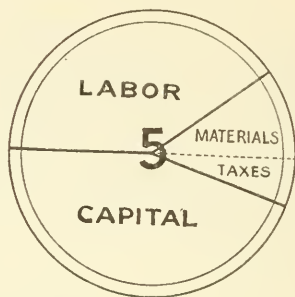
B. *Electric Light.* 1.—*Jacksonville (Fla.) Public Electric Light Plant.* When the municipal plant was established, the private companies were charging 28 cents per kilowatt. The city plant reduced the charge at once to 7 cents per kilowatt and has kept it there. For a 2,000 c. p. arc burning all night the companies charged \$15 a month; the city plant

fixt the rate at \$7.50 a month. For midnight arcs the old private rate was \$13, and the new city rate, \$6.50. The old companies were forced to meet these rates, and the price of gas was also forced down from \$3 to \$1.50 per thousand feet. Prior to the establishment of its municipal plant the city was paying \$8,000 a year for lighting its streets with gas. Now the streets are lighted free by electricity; also the public buildings, jails, fire stations, armories, hospitals and all charitable institutions. The street and commercial lines are being constantly extended out of earnings. A considerable sum is being laid by for a sinking fund, and the business is paying 5 per cent. interest on the investment. At present (Oct., 1899) with 160 arcs and 300 30 c. p. incandescents in the public service, and 85 arcs and 15,000 16 c. p. lamps in the commercial system, serving 1,250 customers, the total operating expenses are at the rate of \$36,000 a year, extensions \$2,100, receipts \$45,000, besides public lights worth \$20,000 a year at present commercial rates. Investment \$150,000. Profits at the rate of \$24,000 above operation and depreciation; most of it in the shape of free public lights. It is estimated that the municipal plant saves the people 75 per cent. of the former cost of light for equal service. From the data in my possession I can only figure out 65 to 70 per cent. saving including reduced rates, cash profits and free lights and subtracting interest. By the reduction of rates alone (gas and electric, public and private) the people are now saving at a rate that will amount each year to more than the entire cost of the municipal plant. Thru the entire history of municipal control of public works in Jacksonville not a breath of suspicion of political jobbery has been attached to the management.

(See *City Government*, Nov., 1899.)

*C. Street Transit.*—1. *Cost in New York.* According to Mr. H. H. Vreeland, president of the Metropolitan Street Railway Co., the nickel street car fare is divided as follows: For labor, 1.95 cents; materials, .485 of a cent; taxes, .265 of a cent; interest and dividends, 2.3 cents. Under public ownership free of

debt a 2½ cent fare would pay for labor and materials, even without considering the reduction of cost per passenger sure to result from the increased traffic consequent upon low fares. Including the transfers as so many additional rides,



the present average fare per ride on the Metropolitan system is only 3 1-3 cents, and as 46 per cent of the fares go for interest and dividends, less than 2 cents per ride would pay running expenses under full municipal ownership without considering the increase of travel sure to come with a 2-cent or 2½ or 3-cent fare.

2. *Defiance of Law by Street Railway Companies.* The following account is taken from *The Outlook*, Nov. 25, 1899:

*"Highway Robbery.*

Within the past few weeks newspapers in this city and its vicinity have abounded in such titles as "Streets Stolen," "Tracks Torn Up," "Roads Ruined." The cause is found in several unusually audacious and impudent attempts on the part of rival trolley corporations to violate the rights of the public and even to defy the law itself. The usefulness of the trolley roads between suburban towns is unquestioned, but their rapid extension has led to gross carelessness in the matter of protecting the roads. Thus, Westchester County, where the particular outrages above referred to took place, has been, at great cost and labor, provided with many fine macadamized roads, leading often through beautiful scenery; their use forms one of the most agreeable of country pleasures to be had near New York, to say nothing of their great and increasing practical utility. That such roads as these should be wantonly and repeatedly torn up without sanction of law and while litigation as to rival franchises is still pending—yes, even when injunctions are in force to prevent this very thing—justifies the epithet high-handed robbery. In one recent case the two rival companies put five hundred men (about evenly divided)

at work simultaneously on a short section of road, laying their rival tracks side by side and absolutely ruining the road unless it be entirely rebuilt. Fights between the laborers of the two gangs were common, and something very like a pitched battle has been repeatedly threatened. In this case one of the companies had only the most shadowy, second-hand, semi-defunct claim, and the residents along the road were striving to obtain an opportunity to be heard in the matter. At another place in the same county a city government was obliged to remove forcibly a line of rail and to protect its laborers by a platoon of police against a threatened armed attack by the corporation's employees.

Of the bribery of small city and village officials—men to whom a hundred dollars is a strong temptation—of the pulling of political wires for corporation ends, and of the incessant employment of legal trickery and subterfuge, there are constant accusations and clear moral evidence. But what we note here is the increasing tendency of these contending litigants, the rival trolley companies, to forestall the decisions of courts and grants of franchises by actual violence. This sort of thing grows with immunity. It is time that an example should be made of the more flagrant violators of the law. Confiscation of roads and road privileges has become altogether too common and too easy. The prize in these vicious rivalries is usually not immediate profit, but the rich future possibilities of gain. The people, too, should look to the future, and fight vigorously for their parkways, beautiful residence streets, and costly highroads. (From the Outlook, Nov. 25, 1899).

#### *D. Telephone and Telegraph.*

##### *1. Telephone Taxes.*

Columbus, O., Dec. 19.—By a decision of the Supreme Court to-day a new method of tax valuation far reaching in its effect will be established in Ohio. The decision directly affects the telephones of the Bell Company, which are held to be taxable at their rental value, estimated at \$233 each, instead of their actual cost, \$3.40 each. The authorities estimate that there are 25,000 Bell telephones in use in the State. If each of these instruments earns \$14 net for the Bell Telephone Company, it represents a value of \$233 to each instrument. On 25,000 instruments it represents an earning in the State of Ohio of \$5,833,000. The Attorney General claims that on this basis the company owes the State \$80,000 annually.

The probability is that the average net return to the company is considerably more than \$14 per phone. The attorney General's estimate appears to be quite conservative.

*E. Private Monopoly.*—1. *Possible Perpetuation—Vandal Ruin. Macaulay's Warning.* If a united body of

men owned all the guns in the community and the magazines of powder and shot, and the rest of the people had no weapons, the powder monopolists could do what they pleased with the government and the people. But distribute the guns and ammunition so that each citizen shall have a supply, and, with reasonable public spirit, military despotism will be impossible. The private monopoly of franchises and magazines of wealth has had effects in some degree similar to the effects of the concentration of military in power in the hands of a conquering army or hereditary nobility. Only industrial diffusion can overcome industrial despotism and bring us full liberty and democracy.

It is not difficult to see how private monopoly might possibly perpetuate its power if the people delay too long. The growth of monopoly reduces larger and larger masses of people into industrial subjection. Dependence stifles resistance and saps the fountains of manhood. Custom and training may make our workmen helpless parts of a great machine, and even make them believe in the righteousness of the conditions that oppress them. Industrial serfs may not only be made to vote as their masters direct, but to think as they wish. Men may be taught to reverence their oppressors, applaud the doings of industrial despots, and fight for their monopolistic masters as they did in former times, for their emperors and kings. I do not agree with those who think this is likely, but it is certainly conceivable in the light of history and the laws of human nature, and if we would avoid the possibility we must act while the people have independence enough to resist the encroachments of monopoly, and manhood enough to make their resistance effective. Let us make the great franchises and natural monopolies public property then we may be able to battle successfully with monopolies of association till the growth of co-operative thought shall solve the remainder of the problem by the development of voluntary co-operation.

There is another possibility that must not be forgotten, viz., that



the growth of monopoly and subjection without a corresponding development of slavish sentiment and submission might produce volcanic conditions.

In 1852, referring to the arguments used by Gibbon and Adam Smith to prove that the world would not again be flooded with barbarism, Macaulay said that "civilization itself might engender the barbarians who should destroy it. It had not occurred to them (Gibbon and Smith) that in the very heart of great capitals, in the neighborhood of splendid palaces and churches and theatres and libraries and museums, vice and ignorance might produce a race of Huns fiercer than those who marched under Attila, and of Vandals more bent on destruction than those who followed Genseric."

We may be inclined to think Macaulay's fears unfounded, but we must admit that a new emphasis has been given to his words by the recent rapid growth of cities, the increase of the slums, the sundering of classes, the intensification of antagonisms, the widening breach between rich and poor, the vast concentration of political and industrial power in the hands of a few unscrupulous men, and the gradual pressing down of the middle classes toward the proletariat. Every man that monopoly squeezes out of the middle classes, each independent owner reduced to a dependent wage worker, each skilled mechanic or artisan translated into a mere discretionless cog in a big machine, every workman thrown out of employment by the concentration of industry without adequate provision for the redistribution of displaced labor, lowers the average level of our industrial life and adds to the forces tending to increase the proletariat and every accession to the proletariat is a new drop in the sea that may submerge our civilization. Let us do what we can to develop thought, character, sympathy and conscience; establish justice, insure domestic tranquillity, provide for the common safety, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, by ordaining diffusion in place of congestion, government by

the people in place of government by an elective aristocracy, and the partnership of public ownership in place of private monopoly—a union of all for all instead of a mastery of most by and for a few.

2. The growth of direct legislation, public ownership and co-operative industry with the manhood they express and develop, is the hope of the future. None are more interested in this movement than the wealthy. If they resist the current that sets toward full democracy in government and industry, if they persist in seeking to intrench and perpetuate private monopoly and industrial aristocracy till the people lose patience and the forces of democracy burst into rebellion, their power and riches will be swept from them and even their lives may be in danger; whereas if they join the march toward industrial justice they may easily place themselves at the head of the column and become respected and honored leaders in a new evolution instead of being trampled under foot in a new revolution, and shorn of their possessions in a new and violent emancipation.

When talking of industrial democracy sometimes I have heard men of wealth remark: "Yes, it is coming; I can see that clearly enuf, but it will not come in my time, and I shall continue doing business on the old plan." This is not only a selfish attitude, but short-sighted selfishness at that. History sometimes moves very fast. In the fifties the Southern planters did not dream of forcible emancipation in the next decade. In 1785 no one dreamed that the French aristocracy would fall in a few brief years. Americans will never establish a reign of terror under any circumstances, but if justice is delayed too long the people may be tempted to destroy monopoly without due care as to the fair distribution of the burden of the change thruout the community to be benefited by it. I have heard the leaders of an organization that is rapidly growing in strength, advocate the socialization of capital without compensation, urging that every fortune was a social product and ought to belong to the people; and I have seen great audiences of good-look-

ing working people applaud the proposition. It has been the commonplace of history for those in power to resist till the people rode over them rufshod. Can we not have a change? Can we not learn something from the past? Will not the wealthy use their heads and their hearts and join with the workers to secure just conditions by just and moderate methods? Will the wealthy manage and direct the train of progress, or will they be found beneath its wheels?

3. *The Standard Oil Trust* offered \$400,000 to Hon. Frank S. Monnett, Attorney General of Ohio, if he would simply do nothing in a certain suit so that the case against the Oil Combine for violation of the trust laws should not be pushed. Mr. Monnett, tho a poor man, refused the bribe, pushed the suit and made the outrageous offer public, Dec. 27, 1899. Mr. Monnett spoke to the Twentieth Century Club in the lecture hall of the Boston University Law School. The next evening he was to speak in Cooper Institute, New York, but he was not allowed to speak as announced, because (as I learn from excellent authority) the trustees feared that if Monnett were allowed to speak as announced, subscriptions promised by Oil Trust people would be lost to Cooper Institute work. As said subscription amounted to a large sum (\$200,000) the Institute management thought best to omit Mr. Monnett. Half a million would not buy Mr. Monnett, but two hundred thousand can keep him from speaking in Cooper Institute. Such gag-rule fits very nicely into Standard Oil history. The Cooper Institute case belongs with the Bemis expulsion from Chicago's oil university because he said too much about the benefits of municipal ownership of gas works as disclosed by his investigation into that subject. In Monnett's History, of the case of State vs. Standard Oil Co., in Ohio (a bulky book of 400 pages) one of the most enlightening portions consists of the testimony (pp. 153, 189, 226) about the Trust's burning its books to keep its transactions from ever appearing in court or coming clearly to light in any way. The Oil Trust

is not proud of its biography. Gaggery goes naturally with the bribery and perjury it has so often practiced (see above pp. 88, 89), and the burning of account books is a fit companion to the theft and mutilation of public records (see above pp. 63, 89.)

4. *Publicity.* In the great effort of John R. Dos Passos, of No. 20 Broad street, New York, to justify and defend the trusts before the Industrial Commission at Washington, Dec. 12, 1899, it is noteworthy that the demand for more publicity of corporate and combine affairs was strenuously opposed (Passos' Arg., p. 61). That is the key of the corporation and trust position. If they can keep their transactions secret they are comparatively safe. But they know that if the people knew what they know about their history and methods their power would be shortlived. That is why they refuse to produce their books and burn them rather than allow them to be inspected. This publicity which the corporations and trusts are so much afraid of is evidently the very thing the public should insist upon. Dos Passos says it is none of the public's business. But I do not think the public will agree with him. Where the public supplies a franchise it is clearly a partner and entitled to full knowledge of the company's affairs. And where the aggregation of capital is a combine seeking to control the market it is under the ban of both common and statute law and the State has the same right to investigate its doings as in the case of any other wrongdoer. The public also has the right of inspection of *all* concerns to whatever extent it may deem necessary to *prevent* violations of law or departures from public policy.

We can clip the wings of the trusts by insisting on publicity. We can tax monopolistic combines at a higher rate than ordinary business, at the same time putting specially low taxes on co-operative business as being of exceptional value to the public. And with public ownership of the railroads we could refuse transportation to goods made by concerns not freely open to inspection or not doing



business on a co-operative, or at least on a profit-sharing and labor co-partnership basis. We can make the disadvantages of aggregating capital on the aristocratic, anti-public, ring-for-private-profit plan, so emphatic; and the advantages of aggregating capital for co-operative industry, so pronounced, that capital will crystallize along co-operative lines, and offer employees and consumers a reasonable share in the benefits of the combine. A trust is a good thing for those inside of it; let the people inside and it will be all right. The union of capital is most excellent, if it is a union for service and not for conquest. The working people of this country have it in their own hands to say whether united capital shall be their servant or their master. Put big burdens on air-tight, all-for-ring trusts, and high premiums on open, co-operative, fair-show-for-the-people trusts, and the latter will grow like morning glories in a sunny garden, while the former will die like grass beneath a heavy plank.

5. For years the Philadelphia Councils have been tampered with by corporate influences to prevent proper repair and improvement of important public works in order to build up an excuse for selling or leasing them to private syndicates. This policy with the gas works culminated in the recent shameful lease which was really a gift by Councils to their sin-dicker-ate friends of a privilege worth probably not less than 40 or 50 millions, considering the present known cost of gas making and the probability of still further cheapening of cost in the period of the lease.

With the water works the same policy has been pursued (see art. in Nov. *Forum*, 1899, by Hon. Clinton Rogers Woodruff), but the Mayor and his committee of experts, together with the Municipal League and various other citizen's organizations, succeeded in rousing sufficient public sentiment and action to secure the submission of a 12 million loan for the improvement of the water works, and the people voted yes 114,000, to 24,000 noes, so the wrecking policy which has made Philadelphians drink

their allotted pecks of dirt with undue rapidity in recent years, has met with its little Waterloo, and Philadelphia water will cease to make the traveler think he is in the land of mixed drinks, and coal-tar-linty-clay washing fluid.

6. *Land Monopoly; Unearned Increment*, etc. Private monopoly of land is undoubtedly productive of serious injustice, and may endanger freedom and democracy. Individual holdings are very unequal, or a number of owners combine against the landless. It is unjust that vast increments of value due to the growth of the community and the development of civilization, and in no way to the effort or merit of the owners of the favored lands, should accrue to such owners. Values produced by the community belong to the community. Again, if some have large domains while others have none, or if a large number of moderate holdings are combined under a single control amounting to united ownership as against the landless class, then the further evils of class and mastery develop, and become specially pronounced where the landlords are few and mostly absent from the country. To prevent the congestion of wealth by private absorption of values created by the growth of society and civilization, to eliminate land aristocracy, and to secure to all persons their just rights to the use of the earth, it is necessary that land should become public property in effect, (whether title passes or not) either by purchase or by absorption of the rental value in the form of taxes, the change in either case to be gradual and upon fair compensation, for those who seek justice must be willing to do justice. *All future* unearned increment may rightly be taken in taxes as John Stuart Mill so forcefully urged (see *Equity Series No. 2*). And *progressive* taxation of rents in common with similar taxation of other monopolistic and capitalistic incomes would be perfectly just. Such taxation should be progressive both as to time and as to extent of holding and amount of rent—the per cent. increasing with the size of the individual income or holding, and *all* percentages in-

creasing by easy stages every 3 or 4 years. These measures together with the gradual public purchase of lands beginning with those which form the basis of productive and distributive monopolies, will, I believe, afford a reasonable solution of the problem.

The "single-tax" idea contains a great truth and a great error. Its *purpose*, to restore to the people the beneficial ownership of the soil, is right; but its *method*, the concentration of all taxes on land values, taking practically the whole rent due to land-values at one sweep without compensation, is very wrong. It is wrong because it is confiscation, class oppression, grievously unequal compulsory contribution to a common public purpose, and because it neglects other matters even more vital than the unearned increment from land. If A and B earn and save \$2,000 each, and A buys land while B invests in goods or buildings, both acting under the sanction of existing law, it is not fair to relieve B of all taxes and place on A the whole burden of the common government; to deprive A of substantially the whole value of his investment by a land value tax without compensation for his land which is virtually taken from him for public use is simply confiscation and would not be permitted by either State or Federal Constitutions, nor by the sense of justice which underlies those constitutions. Neither one man nor a million nor ten millions have any right to take the rent of that land (which is the same as taking the ownership of the land) until they have bought the land and paid for it or otherwise acquired a just title to it, which cannot be done simply by passing a law that the beneficial ownership of land shall be forthwith transferred from the present holders to the public. Only a military situation similar to that which justified the emancipation of the slaves without compensation, could justify *such* an emancipation of the land. The single-tax theory also makes a mistake in thinking that the abolition of private monopoly in land is all that is necessary to solve our industrial prob-

lems. The *private monopoly of franchises*, and the *private monopoly of capital* would still remain, and the single-tax would not "free labor," nor even lift wages permanently. No matter how free land might be, labor could not successfully compete in the production of cotton cloth without big cotton-mills and money, nor in the production of steel rails without costly furnaces, rolling-mills, etc., nor in transportation, gas, electric light, telephone service, etc., without franchises. To make even agriculture a success takes more than land,—it takes buildings, stock, machinery, capital, and knowledge. Laboring men would show the same inability and disinclination for agriculture that they show now; they would still cluster about the towns and cities and press into manufactures and commerce, and the mill-owners and franchise lords could make their terms just as they do now (perhaps even lowering wages by an amount equal to the temporary drop in rents that would follow the single tax) and labor would be under the heel of capitalism as truly as it is to-day. Wall Street would like nothing better than the single-tax, throwing all burdens on land and leaving their stocks, bonds, mortgages and franchises free.

In this country at present the private ownership of land is not as a rule so centralized or dangerous a form of monopoly as the private ownership of street railways, telegraphs, telephones, railroads, etc., or the private ownership of government. It does not corrupt legislation, or debase employees, or water stock, or issue false accounts, or give rebates or passes, or sustain lobbies, or control elections, or threaten the existence of free institutions, as do the great franchise monopolies and monopolies of combination for the control of industrial and political powers. As the soil is divided now in this country the great mass of land-owners do not belong to the class of dangerous monopolists. The single-tax would be a blow at the farmers and home owners all over the land, a blow at the friends of democracy and progress. It is not well to bombard our own forces in order

to hit a few aristocrats. Neither is it fair to fire at one class of aristocrats and leave a worse class alone. Progressive income and inheritance taxes hit aristocrats of every sort,—land magnates, franchise lords, princes of market and factory—hit them fairly and justly, but fly over the heads of the common people—those are the arrows with which to make war for democracy. Direct legislation, municipal home-rule, good civil service, progressive taxation, compulsory arbitration, profit sharing and co-operation, publicity of corporation, trust and combine books and accounts, and public ownership of the great franchise monopolies that have their hands on the throat of the government and are exacting enormous tribute from the people—these are the things that will help the farmers and mechanics and carry us toward a truer democracy and a more Christian industry. We must not forget, however, our great debt to the single taxers for the valuable discussion they have awakened, and the earnestness with which they have argued their just plea against land monopoly; nor should we overlook the promising fact that some of the best of these earnest reformers have come to see that other movements are valuable also, and to advocate direct legislation and the public ownership of franchises.

*F. Municipal Ownership in Great Britain.* The following facts from the Municipal Year Book of the United Kingdom for 1899 are of great interest:

"Remarkable activity has been shown by the local authorities throught the country in promoting Bills for the next session of Parliament. The list almost creates a record. A glance through the Bills gives a further indication that *the local authorities, great and small, are determined to secure control, wherever possible, of all Tramways, Electric Lighting Schemes, Water and Gas Supplies, and other common necessities.* It is interesting to note that an unusually large number of Urban District Councils are proposing to buy out the local gas and water companies before the capital of these undertakings is unduly swollen by the needs of an increasing population." (p. 1.)

*Electric Light.*—The supply of electricity for light and power is fast becoming one of the leading municipal industries in the country. (p. 423).

"Some of the oldest electric undertakings are under municipal control, and municipal works in existence or in progress outnumber the other by more than two to one. (p. 424). At the end of 1898, 138 works were in operation—81 under municipal management and 57 in private hands. There were 63 installations being laid down—51 by public bodies and 12 by companies; while public authorities held 104 provisional orders and presumably had works in contemplation, and 11 were held by companies. Private supply of electricity has, therefore, almost come to a standstill, and will have to confine its progress to the area already under its control. This was illustrated in last year's applications for provisional orders. There were 42 applications by public bodies; every one was granted. There were 13 applications by companies, and only 5 were granted. (p. 424). Over 70 applications for provisional orders for electric lighting have already been made by local authorities for 1899, and several towns are proceeding by way of bills to buy out existing companies." (pp. 1 and 426).

"Municipal Corporations have always one great advantage over Electric Lighting Companies: they can become their own best customers; they can light their streets and their public buildings with electricity. This privilege has, no doubt, enabled them in many cases to establish a paying business soon, but it is not necessary to success. Hull Corporation, for instance, supplying only currents to private lamps, had a net surplus in its second year of £1,053, and in its third year of £1,263. A further advantage in favor of municipalities is that they can borrow capital at exceptionally low rates of interest—2½ and 3 per cent. On the whole, municipal enterprises have been very successful." (p. 425).

*Tramways.*—"There are 11 local authorities applying for Provisional Orders to construct and work tramways, and it is interesting to note that half of these are Urban District Councils; 27 Tramway Bills are being promoted, and in the majority of cases the powers sought for are for the conversion of systems and extensions. A noticeable feature in these Tramway Bills is the desire of the large Corporations, who own tramways to secure working powers in outside districts, to buy out existing companies, if necessary, and to co-operate with smaller local authorities. The Darwen Corporation proposes to amalgamate with Blackburn for tramway purposes, and the Bill promoted by that authority provides for the establishment of a Joint Board." (pp. 1, 2).

"No branch of municipal enterprise has made such rapid progress during the past year as that relating to tramways. Almost without exception every large town has completely municipalized the tramways or is about to do so. It is now recognized that no tramway service can be of the fullest benefit to the people, unless it is operated, as well as owned, by the municipality. Every town is also seeking to introduce electric or other mechanical traction. As in almost every instance corporations



own the electric lighting supply, the introduction of electric traction will prove of great advantage both to the lighting and tramway departments, enabling both to lower their charges (p. 439). In January of this year the London County Council took over the undertaking of the London Tramway Company—25 miles of tramway track in South London. The undertakings of other companies of London will fall into the hands of the Council in a few years, and in the meantime, extension schemes and new connections are being planned. In cases where the leases of tramway companies have some years to run, the Councils in many parts of the country are buying the undertakings. \* \* \* \* The Liverpool Tramways Company had still 18 years to run when the entire concern was bought out last year by the Liverpool Corporation at a price of £567,375, representing an amount of £12 15s. for each £10 share. \* \* \* Manchester has also decided to take tramways into its own hands at the expiration of the leases in 1901." (p. 442).

Great as has been the municipal tramway movement in the last three years, "even greater activity is being shown by municipal authorities throuth the country in the promotion of schemes for the session 1899. The authorities applying for provisional orders to construct and work electric tramways are:

Audenstraw Urban District.  
Barking Town Urban District.  
Clayton (Yorks) Urban District.  
Devonport Corporation.  
Eccles Corporation.  
Ilford Urban District.  
Ilkeston Corporation.  
Matlock Urban District.  
Queensbury Urban District.  
Reading Corporation.  
Southport Corporation.

"In addition to these bodies the Corporations of Aberdeen, Blackpool, and Halifax are applying for orders to construct and work additional tramways.

"The following towns and districts are promoting Bills to construct and work tramways to use electric traction, or to extend existing systems:—

Ayr,	Leeds,
Belfast,	Manchester,
Barking Town,	Moss Side,
Blackpool,	Newcastle,
Blrkenhead,	Nottingham,
Bradford,	Oldham,
Darwen,	Rhondda,
Derby,	Salford,
Dundee,	Stockport,
Edinburgh,	Stretford,
Glasgow,	Sunderland,
Great Yarmouth,	Wallasey,
Hastings,	Withington,
Kirkaldy,	Wolverhampton.

"Several of the above towns, including Manchester, Bradford, Glasgow, Leeds, Oldham, Wolverhampton, etc., are seeking power to construct and work tramways outside their own boroughs, and in some instances to purchase existing undertakings. Provision is made in some of the bills for large towns to supply the outside districts with electrical energy to work tramways." (p. 441).

*Gas.*—"Over two hundred municipal authorities in the United Kingdom sup-

ply gas. More than that number of urban communities have municipal supplies, as in a number of cases one authority supplies several towns and suburban districts. Nearly all the large towns have the gas supply in their own hands; the more notable exceptions are London, Liverpool, Dublin, West Ham, Croydon and Newcastle. (p. 403). Many gas undertakings owned by private companies will shortly pass into the hands of local authorities. Bills are being promoted by 16 towns and districts to acquire rights and works." (p. 2.)

*Water.*—"The supply of water is a branch of public service which has come under the control of municipalities to the greatest extent. \* \* \* Of the 141 boroughs other than county boroughs in England and Wales, 139 have municipal supplies. Out of 766 urban districts just about half have municipal water. \* \* \* The only "great towns" in England which have not a municipal supply are London, Bristol, Newcastle-on-Tyne, Norwich, Gateshead, Portsmouth and West Ham. Including the great towns, there are 64 county boroughs in England and Wales, and in all but 19, the water supply is under public control. In all the large towns of Scotland—Glasgow, Edinburgh, Dundee, Aberdeen, Leith, Greenock, Paisley, Port Glasgow and Perth—the water supply is also in public hands. In Ireland, Dublin has a municipal supply; Belfast's supply is under a commission partly elective, and Cork has a municipal service. With the exceptions above mentioned, the towns without municipal supplies are, in the majority of cases, small or old towns." (p. 373). Parliament will have before it this year a large number of important water schemes. The most comprehensive is that brought forward by the London County Council, which once more proposes to buy out the 8 metropolitan water companies." (p. 2.).

*Markets and Slaughterhouses.*—Lists are given of the "principal" municipalities owning slaughterhouses and markets; the former lists contains 50 municipalities and the market list 117.

2. Growth of public ownership, see *The Outlook* for August, 1899, and *Progress* for December, 1899.

G. In his Political Economy, Bk. V, Chap. II, paragraph 11, John Stuart Mill, after stating that competition does not really take place among gas and water companies, says, "the charge for services which cannot be dispensed with, is, in substance, quite as much compulsory taxation as if imposed by law."

II. Dr. Hale. In a letter just received (Dec. 16, '99), from "Boston's most eminent citizen," Rev. Dr. Edward Everett Hale, the following points are made respecting public ownership:

"I am an old New Englander,—one of those who believe that the fathers 'bullded better than they knew': (1.) The fathers establisht common schools for everybody. They would never have dreamed of having anybody but the town own the school-house. (2.) The fathers establisht bridges and roads for everybody. They imposed no taxes when a man crossed the bridge over the canal at the North End. When they did establish toll bridges and turnpikes, the whole thing was exceptional; it broke down entirely, and the public has been obliged to accept those turnpikes and bridges and make them a part of the public property. (3.) When it came to water, which everybody needs, it very soon proved that private corporations for the distribution of water were a mistake, and that the public must own the water supply and administer it. (4.) The same rule applies in the matter of the post, which is of service to everybody. (5.) The same rule applies in the matter of lighthouses, which are of service to everybody. (6.) There is no reason whatever known to me why the stone pavement of a street should belong to the public, and that part of the pavement which is made up of iron should belong to some favored corporation. I have never seen any pretense at any justification of it on principle.

(7.) *This means, in general, that whatever is intended for the good of everybody is better in the hands of the public."*

I. Rev. Dr. Washington Gladden, a famous minister and one of the foremost leaders of thought, says:

"There is one class of capitalistic aggregations, based on monopoly, against which popular indignation is likely to be kindled even sooner than against the so-called trusts. I refer to those which are founded on municipal franchises. Most of the companies owning these franchises have issued capital far in excess of their actual investment, have disposed of the stock thus issued and are charging enuf for the services rendered the public to pay the dividends on all this watered stock. If they were content with a fair return on what the plant has actually cost them, the price of the service could be greatly reduced. A fair return on their actual investment nobody grudges them, but the privilege of taxing the community to pay dividends on two or three times as much money as they have invested is going to be questioned one of these days. When the reckoning day comes to our monopolies some sharp inquisition may be made into the fundamental equities of many of these institutions. Vested rights will be respected, I have no doubt; but vested wrongs may be called to account." And again: "Shall we be able, by purely moral agencies, by teaching, preaching, witnessing, suffering for righteousness' sake, to arrest the spread of the mercantilism which now ravages society, corrupting politics, tainting education, defiling religion? One ought not to be hopeless who fights with such weapons, for they are mighty to the pulling down of strongholds. We may be very certain that there can

be no permanent victory over these destructive forces until there is a radical change in the thoughts of men concerning the relative values of material and spiritual things. Our final resort must always be to the weapons that are not carnal. Yet the children of the light must be wise enuf in their generation to seek the aid of the best environment. That some methods of industrial organization are more favorable than others to the development of character is altogether probable. Not many students of society in these days would hesitate to say that the system of slave labor or the feudal system was, on the whole, unfavorable to morality; to go back to either of these would certainly involve a serious moral loss. The moral and spiritual forces would be at a greater disadvantage under either of those systems than they are now. In point of fact, we have found that the present system, with all its demoralizing influences, produces better men than were produced under feudalism or slavery. The moral and spiritual forces have, then, been assisted by changes in the forms of social organization; and what has been may be. It is certainly possible that some modification of the existing industrial order would give freer play to the moral forces, and check the influences which tend to humanize men and undermine the State. We might easily extend the area of co-operation thru the state or the municipality; we might have more things in common; we might thus greatly limit the action of the principle of strife, and fix the thought of men more upon the things which they enjoy together, and less upon those for the possession of which they are contending. We do already co-operate in many things; we might co-operate in many more. There seem to be certain classes of industries to which the principle of common ownership naturally applies, and it is precisely these industries which are now employed most mischievously for the aggrandizement of the few at the expense of the many, for the building up of an arrogant plutocracy, for the enthronement of false ideals of success, and for the corruption of public virtue."

J. Hon. S. M. Jones, Mayor of Toledo, proposes that the veto power be taken away from the mayor so that he may become purely an administrative officer, direct legislation, or the veto by the people, taking the place of the Mayor's veto. He was nominated for Governor of Ohio by popular petition independent of party action, and received 107,000 votes.

K. Professor Bemis, in his Study on Municipal Monopolies issued by the Social Reform Union, says:

"Competition as a permanent factor in these vitally necessary undertakings (lighting, transit, etc.) being out of the question, and a monopoly having everywhere an irresistible tendency to extor-



tion or poor service if not controlled in the interests of the people, there remain but two possible ways of giving the people their proper dues: public regulation thru state commissioners, city councils, etc., on the one hand, and regulation thru state commissions, on the other."

The Professor then shows that regulation even in Massachusetts has secured only the most insignificant reductions of rates. Only 14 companies ordered to reduce gas rates since the creation of the board in 1884, and no orders for reduction since March, '96 (to Dec. '99). For electric lights there have been but two orders for reduction, and in both instances the companies were small. There have been only two or three cases of reduction of street railway fares, and no reduction below 5 cents. He emphasizes the failure of regulation in Mass. to secure publicity, the most vital facts collected by the commissioners relating to salaries, repairs, extensions, wages and cost of production being withheld from the public. He says: "I believe it is much harder to regulate private ownerships than it is to operate under public ownership."

The main objections to public ownership relate to the spoils system and the possible hesitation on the part of public bodies in introducing the latest improvements in machinery and methods. "These dangers have been entirely overcome in England, where the operating expenses in electric light, gas and street railways are found to average lower in public than in private undertakings under similar conditions."

The change to municipal ownership will produce the conditions most likely to put an end to the spoils system.

Under public ownership a minister or lawyer, or editor or business man can attack the spoils system or other possible abuse of governmental management with far less danger than he can attack the abuses of the monopolies owned by the rich and influential citizens of his city, whose personal profits are injured by the latter sort of attack, whereas under public ownership the interest of this class would be with the attack upon abuses. The financial interests of the rich and influential are with good government under a system of public ownership and largely against good government under private ownership.

For another reason abuses under public ownership are likely to be more easily remedied than the abuses of private monopoly. Under public ownership if a city council is bad this year we may correct the trouble next year. But under private ownership as at present a

bad city council may make a 30-year contract or a 50-year contract, and then what is to be done?

(The courts of the future may hold void a contract made by a legislative body in manifest antagonism to the interests of the public or in fraud of the people's rights, just as they would hold void a fraudulent contract made by an individual agent. Even this, however, would only transfer the battle to the courts, and at best there would be a wide margin between really fair legislation and legislation in which the crookedness was clear enuf to cause it to be set aside. Already the courts hold that a city cannot make a contract with a street railway or other company fixing rates for a term of years. The power to reduce rates is part of the sovereign power of the state and no city can make a contract that would prevent the exercise of that right.)

*L. Dr. Lyman Abbott*, the leading religious editor of America, says: "The sooner our cities own the lines of railroads, the better both for the convenience of the people and the purity of our municipal governments."

*M. Monopolistic Objections and Objectors.*—*Mr. Robert P. Porter*, who was superintendent of the 10th census, says:

"The value of the lines of railroads which Dr. Abbott thinks we should at once own will in 1900 be in the neighborhood of sixteen hundred millions of dollars (\$1,600,000,000), add to this another one thousand million of dollars (\$1,000,000,000) for municipal gas works, and we have a total of two thousand six hundred million of dollars (\$2,600,000,000). If state constitutional barriers could be overcome to accomplish this, the municipal indebtedness of the country would be more than quadrupled, or increased from eight hundred million dollars (\$800,000,000) to three thousand four hundred millions of dollars (\$3,400,000,000), which is simply a preposterous proposition."

Mr. Porter does not appear to be able to imagine that a city should pay for a gas plant or street railway. He does not tell us why it is any worse for a city to issue bonds or other securities than for a private company, nor does he inform us that large portions of the values he quotes are fictitious, and that we expect to squeeze the wind

and water out of them by publicity of accounts, reduction of rates and taxation of face and market values before their purchase by the public.

Mr. Porter is intensely antagonistic to public ownership, and in his latest effusion, the address to the Syracuse Convention of the League of American Municipalities, he gives us 11 columns of opposition without a single *fact* relevant to his conclusions. There are a few adverse statements that may look like facts to those unacquainted with the matter, but the trouble with them is that they are not true. Mr. Porter does not seem to have any affinity for facts. He does not even attempt to answer the thirty-odd charges brought against private monopoly, its inflated capital, watered stock, excessive rates, taxing the community to pay dividends on two or three times the real investment, its anti-democracy and congestion of wealth, its strikes and lockouts, its defiance of law, its corruption of government, its antagonism to the public interest, etc., etc. He ignores these matters. Thru almost the whole address he ignores all but the lowest financial considerations, and even upon the financial plain he ignores the important facts and misstates the few unimportant ones he cites.

He says: "In no single instance can the municipal working of tramways be demonstrated to be a commercial success." He evidently has not seen the Glasgow reports nor the British Municipal Year Book, which show such great successes that towns and cities by the dozen are going over to public ownership and operation of tramways.

Again he says: "Municipal ownership has not made anything like the headway in the United Kingdom which many would have us believe. Some accounts would seem to indicate that England has municipalized such undertakings as water, gas, electric lighting, and street railways to a much greater extent than the facts warrant. Should we consider the four important branches of service—the supply of water, gas, electric light and street railways—together, it would be safe to say that honors in favor of the municipalization of these undertakings would be about equally divided in the two countries."

To understand how utterly false this is, the reader has but to compare the citations above made from the English Municipal Year Book

with the statistics of municipal ownership in the United States recorded in Chap. I. Compare also the following statements of Mr. Porter four columns further along in the very same address:

"The old aspect of municipal administration dealt with the paving and lighting of streets; the supply of water; the construction of sewers; in maintaining order and occasionally in the establishment of parks. The new phase of municipal administration, in its most ambitious form, aims to deal with every question that directly or indirectly affects the life of the people. Carried to the extent which it has been in some British cities, it is in fact municipal socialism. The new school of municipal administration in England enters into the life of the people. It not only takes upon itself the unprofitable side of the local budgets, but argues very plausibly that a well-governed municipality can afford to give no privileges by which corporations may enrich themselves at the expense of the community; that such profits belong to the community at large, or should be used to promote the general welfare. Beginning with the municipalization of gas and water, the idea has extended to tramways, markets, baths, libraries, picture galleries, technical schools, artisans' dwellings, cricket fields, football grounds, tennis courts, gymnasia for girls as well as boys, regulation of refreshment tariffs, free chairs in the parks, free music, and, last but not least, it is proposed to municipalize the ginshops and public houses."

\* \* \* \* "The real, vital, debatable question, which the growth of the municipal idea or municipal spirit is forcing to the front, is: How far can municipalities go in this direction without undermining the whole fabric of free competition? In thus becoming its own builder, its own engineer, its own manufacturer, does a municipality enter too much into direct competition with private industries? Does it undertake work which individuals are at least equally able to perform. If this be so, is there not danger of those of us who applaud the tramway enterprise of Glasgow, the real estate scheme of Birmingham, the municipal tenements of Liverpool, the hydraulic power and ship canal venture of Manchester, the abolition of slums in Bradford, and the grand municipal achievement of Leeds, ultimately finding enterprises other than those in the present catalogue taken up by municipalities."

In lucid intervals, this defender of private monopoly admits the benefits of present municipalization even in its most advanced forms, but he fears its extension and so opposes the whole system except in said intervals.

Mr. Porter's "argument" condensed amounts to this: It is good for the people to own some things,

but it's bad for them to own those things because it may tempt them to own other things which Mr. Porter thinks they ought not to own because it would undermine free competition. It is doubtless good for you to eat beef, but you must not do so else you may get into the habit of eating meat to such an extent that you may be tempted to eat mutton, and so undermine or destroy the excellent butting processes that keep our sheep in active health and make the wool grow.

*N. The Referendum in Boston, Dec., '99.* Among the many benefits of direct legislation, there is reason to lay special stress on its tendency to improve the conditions of labor, and to destroy the rule of monopoly. These points have been enforced by the advocates of direct legislation both by history and philosophy—they *have* been true in fact, and they *must* be true in the nature of things—and now we have a new and brilliant illustration of the strength of the referendum in the directions just indicated. The people of Boston have just voted overwhelmingly to adopt the 8-hour day for all city laborers, and to refuse the street railway monopoly the privilege of replacing its tracks on Boylston and Tremont streets in the heart of the city. The legislature gave its consent, but the people turned down the monopoly. Here are the votes:

On the 8-hour question:

Yes, 62,625; No, 14,518.

On relaying the car-tracks:

Yes, 26,254; No, 51,585.

The track affair shows that altho a giant monopoly may manage the legislature and control the press, it is not able to bend the people to its will. It is only a little while since the tracks on Tremont and Boylston streets have been taken up. These streets used to be crowded to stagnation with cars and other vehicles. The subway was voted by the people and built on purpose to relieve this congestion. It was part of the plan to take up the surface tracks in the heart of the city. The company was required to do this. We now go in 5 or 10 minutes the distance that used frequently to require 20 or 30

minutes, and carriages travel with reasonable speed on the streets where the tracks used to be. The subway is far from being used up to its capacity, yet the Boston Elevated Co., which controls the street railways, wishes to relay the tracks on Boylston and Tremont streets. The people vote a subway to relieve the congestion in the heart of the city and get rid of the tracks about the Common, and a few months after it is done the company asks to be allowed to relay the surface tracks. The legislature was agreeable; would have passed the act without a referendum it is said if Governor Wolcott had not made it understood that a bill without a referendum would be vetoed. The papers were filled with the company's arguments; only one I believe took ground against the relaying and even it was loaded with instructions to "Vote Yes" on the track question, put in large type on the front page and paid for as advertising matter. Yet in spite of all the monopoly could do, it was snowed under by the people.

The D. L. Record for Dec., 1899, contains accounts of various referendal votings in 16 states at the November elections. The data furnish new proof of the fulness, intelligence, public spirit and non-partisanship of popular votes on measures.

In the Ohio campaign four parties had D. L. planks in their platforms. Their vote was as follows:

Democratic .....	368,176
Non-partisan (Jones' vote) ..	106,721
Union Reform .....	7,799
Socialist-Labor .....	2,439

Total..... 485,135

The other two parties who did not oppose D. L., but who did not say they favored it, are:

Republican .....	417,199
Prohibition .....	5,825

423,024

Majority for D. L. platforms 62,111

The mixture of issues make it improbable that all the 485,135 voters were in sympathy with the D. L. plank in their platforms. The Union Reform Party made D. L. its sole issue, and Mayor Jones made



it one of his principal issues, if not his very chief issue, and any man sensible enuf to vote for Jones is probably sensible enough to believe in the referendum, but we cannot so surely count on all the Democrats and Socialists. On the other hand, however, a great number of Republicans and Prohibitionists are known to favor Direct Legislation, so that it does not seem unreasonable to conclude that this vote in connection with other known facts indicates a large majority in Ohio in favor of Direct Legislation.

#### *O. The Merit System.*

The change in public temper is plainly indicated in the view of municipal management which is constantly gaining ground, that the city business is not political, but the administration of a corporation for the benefit of those who compose it. Here are two examples from the last election which are instructive. San Francisco has a new charter which provides for the merit system in making municipal appointments, and it is worth notice that at the time the new charter was just going into effect the election gave an opportunity to test the standing of the two parties on the principle involved. It came in the form of a question whether city affairs should be managed on a business basis or as an adjunct of national politics. The Democrats stood for the former proposition, and won. They declared that it should be the party policy "to confine its municipal platforms and its deliberations in municipal conventions to the discussion of the principles of Democracy solely in so far as they apply to municipal affairs." The Republicans urged the election of their candidate because the election of a Democratic mayor would be a rebuke to the Republican national Administration.

In Baltimore, which also elected a Democratic mayor, the successful candidate has declared his position on the civil service promptly and unmistakably. He says that the police, fire and school departments shall be put on the merit system, "if it is possible for me to bring it about," and adds that he will guarantee that there shall not be a school commissioner of his appointment who "can be touched by the politicians on either side." (Quoted from the *Hartford Times* by the *Boston Transcript*, Nov. 23, '99.)

#### *P. Civil Service and Separation of Local from State and National Issues.*

The inaugural address of Mayor Hayes, of Baltimore, who was elected last spring, met the fullest expectations of the reformers who urged his election. In spite of the recent victory of his party in city and state, he pledged himself to a non-partisan administration as but few public officials have done. "The use of a municipal position by a subordinate," he said, "to advance the in-

terests of any politician or party will be at once proper reason for the removal of such subordinate; and if the head of the department does not remove such subordinate, I will remove the head of the department." With regard to the police force, also, he thoroly indorsed the legislative measures of the Reform League, requiring a civil service examination of all appointees. In Syracuse, N. Y., also, the municipal election just held demonstrated the advance of the principle of non-partisanship in city government. The present Mayor, Mr. McGuire, was first elected as a Democrat because of a division in the Republican party. He was re-elected thru a similar division. This year the Republican factions were apparently united against him, and had as their candidate a man of fine character and ability. The city is strongly Republican, and, had party ties determined the votes of the citizens, Mayor McGuire would have been defeated. He and his friends, however, conducted a campaign on municipal issues, with tracts and lantern slides showing what had been done in matters of city house-keeping during the four years he had been in office. No National question was touched upon, and Mayor McGuire was re-elected by a substantial majority. In San Francisco, California, a similar success was achieved. Mayor Phelan, who made himself the leader of the anti-machine Democrats of the city by his fearless and uncompromising fight against Boss Bulkeley a few years ago, was the Democratic candidate for re-election. The Republicans had carried the city last November, and attempted to carry it again by urging the supreme importance of National issues. Mayor Phelan conducted his campaign strictly upon municipal issues, risking on that account an organized revolt within his own party, and won the election by a plurality of more than seven thousand. He will administer San Francisco under the new and admirable charter which he helped to secure, and men of all parties are expecting a pure and progressive government. If this practice of *selecting municipal officials on municipal issues* shall go on making headway until voters no longer feel that their ballots for or against city candidates will be interpreted as ballots for or against expansion or silver or tariff, the gain will be immeasurable. On this matter, however, the chief obligation rests upon the press not to misinterpret the significance of local elections in order to make party capital out of municipal overturns. (From *The Outlook*, Nov. 25, '99.)

#### *Civil Service and Home Rule.*

Mayor Hart, of Boston, in his 1900 message, and Governor Crane, of Massachusetts, in his inaugural speak strongly in favor of municipal home-rule, and the Mayor endorses the merit system as follows: "The civil service law, in its letter and spirit, will be complied with, and applicants for employment in

the public service should learn that the law is their good friend, not an enemy, except to evil doers. And let all know that this is to be a government of law and order, not of partisanship or spoils." Two excellent, enlightened, forceful documents, the message and inaugural of these two officers who place their allegiance to city and state above their allegiance to the Republican party that elected them.

*Q. Election Frauds.* One of the most difficult forms of corruption to meet is the bribery of voters by a promise conditioned upon the success of the candidate or ticket the briber is working for. The corruptionist says to the boss: "If our ticket wins in this ward (or district or polling place) there'll be \$5 for every boy that votes our way; but if our ticket does not win here you won't get a cent for yourself or any of the boys." The automatic ballot makes false counting and box stuffing impossible, and discourages ordinary individual bribery because the voter can take his bribe and still vote his own way; but it does not meet these conditional agreements. Nothing can do that apparently under present conditions of average conscience and intelligence, except great watchfulness on the part of honest citizens and a strong corrupt practices act to make such agreements too dangerous to risk.

*2. Philadelphia Election Frauds.* At a hearing in Philadelphia, Nov. 10, '99, it was shown, by the testimony of one who took part in the affair, that in the 13th Division of the 7th Ward a large number of folded ballots (about 200 the witness thought) were put in the ballot boxes before the polls were opened. Additional fraudulent votes were put in during the day, and a number of genuine votes were destroyed. The number of votes actually cast was 124, while the returns showed over 340, 337 votes being returned for the republican candidate for State Treasurer. The fraud was accomplished by collusion among one of the inspectors of election and persons impersonating the other inspector and the judge of election who was ill. Some of the men concerned came on from

Washington, and their hotel bills were paid by a well-known local republican. Several prominent republican politicians were implicated by the testimony.

The Pennsylvania Constitution does not require personal registration by the voter, and the law is otherwise very loose. Any voter may take another person into the booth with him, so that bribery and intimidation are easy. The Municipal League of Philadelphia, the Prohibitionists and The Business Men's Republican League, have been hard at work detecting and punishing fraudulent registration in that city, and they think the fraudulent vote has been reduced this year to about one-half its usual dimensions, but even this reduction is thought to leave some 15,000 fraudulent votes. In a recent letter to the President of the Business Men's Republican League John Wanamaker says:

"We have not had an honest election in Pennsylvania for years. When the host of Pennsylvania freemen, supposed to be enlightened and independent, march to the polls, each individual voter knows that he is acting under a remorseless espionage from which there is no refuge or escape; that he must answer to his party, his boss, or his industrial master, if he is in any wise dependent; that his ambitions may be crushed, his employment terminated, his bread stopt, if he consults his own conscience and votes according to his judgment; while for those who are liable to such temptations the bribes of money and drink are offered on every side. These transactions in votes—awful, terrible in the aggregate—go on before all eyes. We see an enormous proportion of the voters all over the State, a proportion increasing instead of diminishing, going into booths, each accompanied by another."

The self-respecting majority in the last Legislature voted to submit constitutional amendments that would make registration and ballot reform laws possible, but Governor Stone vetoed them. Mr. Wanamaker justly urges that the election of a Legislature pledged to call a Constitutional Convention to provide for immediate ballot reform is the State's supreme need.

*R. Another Legislature Corrupted by the Purchase of a U. S. Senatorship.* Now comes Senator Carter, of Montana, presenting to the U. S. Senate a memorial against the validity of the pretended election of Wm. A. Clark as his colleague. The memorial says that \$30,000 paid to members of the Montana Legislature by Mr. Clark or his agents for



votes, has been produced in open session of the Legislature and is now in the treasury of Montana. The document is signed by the Speaker of the Montana House and 27 legislators, and is accompanied by a petition signed by the Governor of the state and many prominent citizens, wherein it is affirmed that certain members of the Legislature, whose names are given, received for their votes specified sums aggregating \$500,000. The charges have been virtually sustained by the unanimous decision of the Supreme Court of the State disbarring Clark's alleged agent (Wellcome) upon indubitable evidence of his having bribed Senators in Clark's behalf. It is not pleasant to have this bucket of political filth from Montana thrown over our civic garments as we cross the threshold of 1900, but the action of the Supreme Court is refreshing, and the air will clear decidedly if the U. S. Senate will do its duty by Clark as well as the Supreme Court has done it by Wellcome.

Is it not time that U. S. Senators were elected by the people, to help the elimination of corruption from legislative bodies, state and national, and to allow the election of state legislators in reference to state issues and not in reference to the selection of Senators to determine the national policy?

*S. Special Legislation.* The N. Y. Laws of 1899, contain special laws relating to cities, towns and villages to an extent requiring over five large pages to index the acts. Here are a few examples:

Albany, Beaver Park, grading and improvement of.

Auburn, paving of portion of South street.

Binghamton, brick pavement on Court street.

Buffalo, charter amended (11 different acts).

Surfacing Niagara street.

Dunkirk, charter amended.

Elmira, charter amended.

Damages for changing grade of Walnut street.

New Rochelle, damages arising from change of grade.

Schenectady, charter amended.

Organization of fire department.

Sewer act amended.

Water supply act amended.

Saratoga Springs, disposal of sewage.

Syracuse, charter amended (3 different acts).

Bridge over Onondaga creek, tax for.

Maps of city, tax for.

Waterford, paving of Broad street.

New York City, blind, licenses to.

Auctioneers, licensing, etc.

Amsterdam avenue, laying street railway tracks in.

Alumni Assoc. of the Presbyterian Hospital Training School for Nurses in.

Dalrymple, John D., reappointment of, as fireman.

Hamilton, Archibald, reappointment of, as policeman.

Sheehan, Michael, claim allowed.

Wynn Bros., claim of, against city, payment of.

All such acts as these and many others should be left to local authorities and the courts.

*The Bushnell Commission.* The Ohio Commission appointed by Gov. Bushnell to formulate a code for municipal administration reports:

1. That there should be but two classes of cities recognized in the law—those of 3,000 people or more, and those of less than 3,000. This is to *checkmate special legislation*. The Ohio constitution forbids special legislation, but this has been nullified by an elaborate classification of cities, thru which an act controlling a "class" often applied to only a single place. (The proposed classification would not prevent the legislature from passing acts to take effect only in such cities as might adopt its provisions by vote of the councils or by vote of the people. The latter sort of law I think should not be barred, but objectionable measures might frequently be passed with the council option. To adjust this it might be well to provide that in case of option laws beyond the mere regulation of government routine, the option of adoption must be placed in the people.)

2. That as city councils are really boards of business directors, there should be *one* board, instead of two bodies with concurrent powers to undo or deadlock each other's work.

3. Strong mayor with full power of appointing and removing heads of departments.

4. City employees forbidden to attend party conventions or make political contributions. (Question

the wisdom of depriving any man of equal civic rights.)

5. Examining boards to determine fitness of all candidates for appointive positions.

6. No alienation of franchises without consent of voters.

7. Voters shall have the right to order the municipal purchase and operation of all municipal monopolies.

*Good!*

*T. Multiplicity of Laws.* The English Railway Commission of 1867 reported that in addition to the acts of universal application, the rights of railways and of the public in relation to them were scattered thru 3,100 acts of Parliament. And Chas. Francis Adams in 1870 speaks of "the 3,200 railway acts on the statute-book of Great Britain, and the 1,000 on that of Massachusetts—nine-tenths of them, in each case, special legislation to meet the requirements of an organized monopoly." (Chapters of Erie, pp. 372, 423).

*U. Statute Notes* relevant to Chapter III on Home Rule for Cities. The volumes of laws passed in various states come straggling in, some of them being distributed with such deliberation that even yet (Dec. 22, 1899), last winter's session laws for Del., Ga., Fla., Miss., and Ariz. are not to be found in Boston libraries. A few points coming too late for full entry in Chap. III may be noted here.

*Wisconsin.* (Telephones, etc.) Chap. 309, 1899, gives any country, town, village or city the right to issue negotiable bonds for the purchase, construction, maintenance and operation of telephone lines and exchanges, or to build or buy water works, gas or electric plants, purchase fire engines, etc.

*Nevada.* (Telephones.) Chap. 76, 1899. Upon petition of two-thirds of the taxpayers of the county the county commissioners may purchase or construct telephone lines, if they think it would be for the interest of the county to own such lines.

*North Dakota.* (Telephones.) Chap. 40, 1899. City councils may grant right of way to telephone companies if the majority of stock is owned by residents of, and the principal place of business is in, the State.

*Colorado.* (Water, gas and electric light.) Chap. 153, 1899. A city or town may purchase, erect or authorize water, gas or electric light works, but no works

shall be erected or authorized except upon a majority vote of the taxpayers.

When a city or town authorizes the erection of such works by others, or the extension or renewal of such a franchise, it shall be upon the express condition that the city or town shall have the right to purchase such works at any time at the actual cash value of the works, ("excluding the value of the franchise, right of way thru the streets, contract with municipality," etc.)

*Missouri.* (Street railways.) P. 105, 1899. Cities may grant the use of streets for street railway tracks only on petition of one-half the owners on the street.

*Ohio.* (Gas or electric works.) P. 60, 1899, the council of any city or village may erect or purchase gas or electric works.

*Municipal Debt Limit.* The Comptroller of New York City, Mr. Bird S. Coler, in a speech before the City Club (Dec., 1899) vigorously advocates municipal ownership of municipal industries, including the water system, docks and the underground railway. He believes that the limit put by the Constitution on the power of the city to incur debts should be so modified as to *separate debts incurred for public utilities that yield a revenue from debts incurred for services that are not self-sustaining, and that a debt which will not be a charge upon the taxpayer should not be included in those charged against the borrowing capacity of the city.* We believe the Comptroller is certainly right in this and the point is a very important one.

The people of the city have voted overwhelmingly to own the underground railroad. It is to be built with capital raised on city bonds, under a contract by which the company building the road pays interest and clears off the debt so that at the end of 50 years the city will own the whole property free of debt, without a dollar of taxation for either principal or interest. (Outlook, Dec. 23, 1899.)

*Haverhill Gas Case* (continued from p. 523). At the hearing before the Gas Commission it appeared from admissions of the company's treasurer and other evidence that for the year ending June 30, 1899, the company made profits amounting to 77 per cent. on the actual investment of the owners in

the property; that the company charged \$1.19 net for gas during said year, while the operating cost was reported at less than 63 cents, including taxes and repairs; and that the company was in the habit of putting into the operating expenses under the item of repairs "heavy charges which were in reality for new construction." The dividends paid since the organization of the company in 1853 have averaged 10 per cent. a year, in addition to which over \$325,000 of new assets have been accumulated out of earnings. For the last 13 years the dividends average 14 per cent. a year, with an increase of assets in the same time of more than \$300,000, all paid for out of earnings. In addition to paying a large interest on the real capital invested by the company, the community has paid for over 4/5 of the present plant, the legal title to which is not in the community that has paid for it, but in the gas company, which uses the plant built with the citizens' money to make and distribute gas to those citizens at rates yielding the company 77 per cent. profit.

With the present output, about 8 cents per thousand feet would amount to a 10 per cent. dividend on the true capital; the improper items included in the operating account quite likely balance depreciation, but to make sure we will add 9 cents on that score, making the operating cost with depreciation 72 cents at the outside, and the total fair price of gas not more than 80 cents, including the 10 per cent. dividend on capital. Accordingly, Mr. G. W. Anderson, counsel for the city, on the gas petition of Mayor Chase, asked the Commission to order the price of gas in Haverhill reduced to 80 cents.

In his argument he called attention to the fact that thru the medium of a second corporation, the corporation laws of Massachusetts have been broken into splinters. Mr. Nevins, of New Jersey, bought the Haverhill gas stock for \$500,000, and organized "The Haverhill Gas Securities Company," to do a brokerage business, purchase and hold stocks, etc. The Securi-

ties Company issued \$500,000 of stock. Then the Haverhill Gas Company and the Securities Company joined in a mortgage of the property and franchises of the Gas Company to the Old Colony Trust Company as trustee, to secure \$500,000 of bonds of the Securities Company, which bonds have been issued, and in large part sold, but none of the money has gone into the treasury of the Gaslight Company. In other words, a plant worth \$400,000 and actually costing the real investors only \$75,000, appears now in effect to be capitalized at \$1,000,000 thru transactions in utter violation of both the letter and spirit of Massachusetts laws—a violation which in part is criminal under the provisions of our law.

Counsel called attention to the fact that in the case of these natural monopolies, especially when made legal monopolies as in Massachusetts, by the definite exclusion of all competing companies, the only refuge of the people, aside from municipal ownership, is absolute publicity of corporate business, and fair adjudication of rates by an impartial tribunal.

"The *publicity* required by the second proposition lies at the basis of the regulation stated as the third proposition. Without publicity, regulation is a fraud, a farce, a mere sop thrown to the public; a cover under which to hide schemes of extortion and speculation. The new system requires the consumer, when these exorbitant rates are being charged him, to come here and ask for a reduction; he cannot invoke competition. Without publicity, without information as to the cost of the product delivered to him by the legalized monopoly, he cannot tell whether exorbitant rates are being charged him or not. In England the most absolute publicity is required of these quasi-public corporations."

"What has been the policy of this Board relative to publicity of returns? From the time this Board was organized in 1885 until to-day, it has, with the exception of one short period, by majority votes refused to allow the public to find



out the cost of the product of the companies given, by the statute creating this Commission, an absolute monopoly in their communities. Bound to make public reports for the supposed purpose of informing the public of the facts requisite to enable them to invoke the judicial powers of this Board for the reduction of extortionate rates, it has never made a report from which the ordinary citizen can deduce, even by careful study, whether his gas company is charging him 10 per cent. or 75 per cent. profit on the product furnished."

"In 1894 Haverhill petitioned for a reduction in the price of gas. The company was charging \$1.40. The cost was about 80 cents. The company was making 60 cents per thousand feet profit and this Commission suggested that it should only make 50 cents; they reduced the charges 10 cents, leaving the company a profit of 62 per cent. on the cost (or 38 per cent. on the invested capital)."

"Can anyone state any legitimate reason why, when the gas consumers of Haverhill came before this Board and asked for a reduction in the price of gas, this Board should throw them a ten-cent per thousand sop, render an opinion, four-fifths of which is in no way pertinent to the case presented, and leave the company to go on charging gas consumers a profit of over 60 per cent (on the cost) for five years more, until the accumulations of that company have become so great that the foreign speculator could not resist the temptation to come here and by illegitimate and criminal methods seek to recapitalize the business. I make bold to say that the policy of this Board as a regulator of public-service corporations has been a failure; that it has not protected the public; that the statute under which this Board was organized has entrenched monopoly and deprived the people of the poor protection that competition formerly gave them. I assert that the Haverhill case, now presented before you, where a \$75,000 corporation has been recapitalized for \$500,000 or \$1,000,000, is a natural and legiti-

mate result of the policy of this Board."

"When you permit an entrenched monopoly to earn from 50 per cent. to 100 per cent. upon the capital originally invested, you make it absolutely certain that some promoter will come forward and seek in some way to capitalize that earning power. I have little to say in denunciation of the stockholders of the Haverhill Gaslight Company, who sold out their stock for \$500,000, par being \$75,000. Who would not have done it? I have little to say in denunciation of the Messrs. Nevins, who saw or thought they saw, an opportunity to make a half a million dollars by selling futures on the monopoly entrenched under the wing of this Commission."

"This Commission has afforded the opportunity for this exploitation. Who can blame these people for grasping the opportunity offered? If the petition of 1894 had been dealt with as the facts and as justice required, the Haverhill Gaslight Company stock would never have been worth \$500,000."

"A company may, if it chooses, charge twenty cents on every 1,000 feet as made for current repairs, which it is really expending for part of a new plant, and the returns to this Board will not show it, much less the report of this Board to the public. The company may easily conceal under an exorbitant salary—which you do not publish at all, although it is required by the statute—ten cents per 1,000 feet. I don't know any reason why these gentlemen who now own the legal monopoly known as the Haverhill Gaslight Company, if they want to pay \$20,000 salaries, cannot do it; under the policy of this Board the people have nothing to say about it. They must not even know about it, for that would be "unwise." They might bring a petition for a reduction of price."

*"I submit to this Board, that not merely the question of the reduction of rates in Haverhill is on trial, but the question of the power and the usefulness and the existence of this*

*Commission, is on trial before the people of this Commonwealth."*

In closing, Mr. Anderson said that "the price of gas in Haverhill should be somewhere from 70 to 75 cents—certainly it should not exceed 80 cents," and also suggested that proceedings should be instituted for the forfeiture of the charter of the gas companies for violation of law in transferring its franchise without authority.

The company claimed at the hearing that, with due allowance for repairs, the cost of operation was 70 cents last year, and judging by the four months ending Oct. 30, 1899, the cost next year would be 85 cents; but the city showed that during those four months  $2\frac{1}{2}$  miles of new mains had been laid and paid for, and that in other respects the estimate was unreliable.

*The result of this vigorous attack is an order by the Gas Commission reducing the gas charge in Haverhill to 80 cents.* This is a remarkable victory, and great credit is due to Mayor Chase and his counsel, Mr. Anderson, of the Tremont Building, Boston, and Prof. Bemis, of New York, who assisted in the statistical part of the investigation. The outcome will be likely to rouse other communities paying 30 or 40 or 50 cents a thousand to, much. Even the consumers of \$<sup>1</sup>/<sub>2</sub> gas in Boston may wake up and do something. The cost of making and distributing gas is much less per thousand in Boston than in Haverhill and the people here also have paid for many years large excesses of profit beyond real cost and reasonable dividends. If 80 cents is a reasonable price in Haverhill, and you may be sure the Commission would never have given the order till certain it was not too low a rate to yield a good profit—if 80 cents is fair in Haverhill, 60 cents would probably be fair in Boston, and in the light of the Passaic offer, noted on p. 523, 60 cents would seem more than fair.

### *The Referendum Again.*

In a New England town any 10 voters can bring a question before the people for decision—a petition signed by 10 voters puts the matter in the warrant to be acted on at town meeting—that is, less than 1 per cent. of the voters in a large town, or 2, 3, 5 or 10 per cent. in smaller towns can initiate any desired action and secure a vote of the people upon it. Why should not the voters of cities have equivalent rights of self-government? Why should not 1,000, 3,000 or 5,000 voters in a city have at least as much power to initiate measures and bring them before the people for decision, as 10 voters in a town?

A year ago immense mass meetings were held in Chicago in opposition to the 50 year street railway franchise, and the proposal to hang Yerkes and any councilmen who voted for the franchise was vigorously applauded; in effect, "a tremendous mob, having practically the backing of Mayor Harrison, overawed the city council and forced it to reconsider its determination to give the street car monopolies a 50-year franchise." Not long ago a similar "mob in St. Louis defied the police and frightened the House of Delegates of that city into quickly passing a law providing for the proper lighting of the streets." (Civic and Social Probs., Feb. 1, 1900.)

If the people were really sovereign they would not have to mob the government to get the laws they want. If cities had the referendum the people would not have to threaten to hang councils, nor defy their own police in order to pass a law. A petition would do the work.

### *The Contract System.*

The street cleaning department of Washington, D. C., has been testing the relative cost of direct employment and contract work and it finds the cost of hand cleaning by direct employment to be 18 cents per 1000 sq. yds., while the contract rate was 32 cents per 1000 sq. yds., or about 80 per cent. more than the cost of doing the work without contract, and this in face of the fact that the City paid the laborers 25 per cent. higher wages than the contractors paid (contractors paid \$1 a day, and the street department paid \$1.25 a day.) For the year ending June 30, 1899, the city cleaned by direct labor, 75,356,385 sq. yds. and saved thereby some \$10,550. To clean the entire paved area of the city every day for 270 days at the contract rate in force during the period of this test, would cost \$311,040, without contract the same work could be done at an annual cost of \$174,960, a difference of \$136,080 in favor of the abolition of the contract system. (Quoted in substance, and the last part verbatim, from p. 4 of the Report of the Sup't of the Street Cleaning Department of the District of Columbia, Sept. 20, 1899.)



## APPENDIX III.

### VALUATION OF PROPERTY TAKEN FOR PUBLIC USE.

Referring to page 519, sec. 4, an excellent rule for determining the actual value of property taken for public use is the one adopted by the Mass. Legislature in chap. 473, sec. 13, Acts of 1897, authorizing the municipal purchase of the Stoneham water works, at "the fair value of the property without allowance for past, present or future earnings, or earning capacity, good will, or any franchise or privilege of said company." In chap. 474, sec. 1 of the Mass. Acts of 1894, relating to the purchase of water works in Newburyport, the Legislature provided for compensation at the "fair value of the property for the purposes of its use, such value to be estimated without enhancement on account of future earning capacity or good will, or on account of the franchise of said company." The company wanted compensation on the basis of past and present earnings, but the commissioners ruled out earnings as a measure of value altogether, as also all privileges in the streets, but *allowed \$40,000* in a total valuation of \$275,000 (the par capitalization of the company was \$300,000) *because the plant was a "going concern,"* tested by experience and ready for the city to begin operation without the delay incident to constructing the works, connecting with customers and building up a good business. These rulings were sustained by Justice Oliver Wendell Holmes, Jr., in 168 Mass., 654, referring in the course of his decision to *Water Works Co. vs. Kansas City*, 62 Fed. Rep. 853, where the court said that "basing the value upon earnings is in effect valuing a franchise which no longer exists." It is clearly true that a valuation based on earnings involves a valuation of the franchise, which is one of the chief factors in securing these earnings, and it is also true that in states where franchises are revocable at the will of the legislature or the municipality nothing should be paid on account of franchise when the property is taken for public use. It certainly seems fair to add something to the structural value of the plant where it is a going concern reasonably adapted to the purpose in hand. If the city should build, it would have to lose interest and depreciation during the time necessary to construct the works and form connections with a sustaining body of consumers. The rule adopted in the Newburyport case, sustained by the Supreme Court and reaffirmed by the legislature in the Act of 1897, above cited, seems eminently just and should be extended to gas and electric light, telephone, street railways and other franchise properties, wherever they are taken for public use.

## PUBLIC OWNERSHIP.

*Municipal Printing Plant.*—Boston's Municipal Printing Plant has made a fine record. With Union wages, an 8 hour day, and no politics in the management, it is saving the City over \$10,000 a year; the operating expenses and fixed charges are that much less than the amount the City would have to pay at contract rates for the work done by the department.

(See extended account by Superintendent Whalen in *City Government*, Vol. 8, page 88.)

Since the above was written the party in power has changed, and the new government has done all in its power to discredit the prior administration of the opposing party. No doubt the said prior administration was open to criticism but the report condemning the printing plant was partisan and unfair in the highest degree.

## Mayor Johnson's Views.

*Street Railways.*—One of the most noteworthy statements recently made in relation to public ownership is that of Hon. Tom L. Johnson, Mayor of Cleveland, in reply to Mr. Creelman's question as to "what he would do if he were Mayor of New York." Mayor Johnson's statement, as reported in the *Cleveland Recorder*, April 17, 1901, was as follows:

"What is true of Cleveland is generally true of New York. The two great steps which are necessary now lead to the public ownership of municipal monopolies and the equalization of taxes. Vice in our great cities is largely the result of injustice, of involuntary poverty, the product of unequal conditions.

"The worst evils of municipal government and municipal politics are due to the struggle for valuable franchises. That is the main source of corruption. When we have put the street railway companies and other private owners of municipal monopolies out of politics we have solved one of the most tremendous problems of city government.

"So long as you continue to grant these valuable franchises to private companies the companies will remain in politics, and will, as a rule, control politics for their own ends. That is the trouble in New York and Cleveland to-day. If I were Mayor of New York instead of Cleveland I would urge the passage of a law providing for a three-cent fare on all street and elevated railways, just as I am determined to secure that system here.

"But that is only a step toward the real thing—the public ownership of street railways.

"Why should not the City of Cleveland own these streaks of steel as it owns that pavement or the water pipes under it? Why should Cleveland or New York vote away monopolies based on the right to use the streets?

"You say that the army of street railway employes would be used in politics, would work to keep some party in power.

"And you think the street railway systems are not in politics now? It is extraordinary to see how little penetration the public has. Now I have built, owned and managed street railways on a pretty big scale. That is a subject I can fairly claim acquaintanceship with. I know the inside of it and the outside of it.

"And I can tell the people of New York, as I tell the people of Cleveland, that the street railways keep their power simply by being in politics.

"They are at the bottom of municipal politics. If they are willing to spend vast sums every year to keep their monopolies, they are bound to stimulate a struggle for office for the sake of the rich spoils they offer. The worst element in politics will fight harder than the best element to get positions which will give them a chance to share in the plunder.

"I don't lay the blame on the poor, corrupt aldermen or on the street railways. They are simply the victims of custom and habit. I blame the system which offers monopolies as prizes for corrupt politics.

"This system invites corruption and paralyzes progress. Let any citizen of New York or Cleveland look at the matter thoughtfully and he must see that the great cities will never free their elections and their governments from the prime source of corruption until they own their own street railways, and all other monopolies founded on public grants.

"It is a waste of time to talk about corruption in the police force, or corruption in the board of aldermen, while we ignore the all-moving power which dominates and demoralizes municipal politics.

"Of course, you will have corruption, of course you will have official incompetency and official cowardice, until you remove from politics altogether the struggle for private ownership of public franchises. That is the overwhelming issue in municipal politics to-day.

"If I were Mayor of New York I would work to have the street railways and all other owners of city monopolies pay taxes on the full value of their property. That is what I want done in Cleveland. Tax the possessions of the street railway companies on the basis of the selling value of their stock.

"That is a fair and businesslike proposition. The street railway companies of Cleveland are stocked at \$20,000,000. They pay taxes only on a valuation of \$2,000,000. The steam railways pay taxes on about 3 per cent. of their value.

"But small property owners have to pay taxes on 50, 60, 80 and 90 per cent. of the value of their property.

"I tell you that, if I were Mayor of New York, I would use my power and influence to change the system of assessing taxes. I would have a public court to equalize taxes. I would have the tax assessors present their figures in court, in the presence of the public.

"I would have large wall maps in each case showing the location of the property assessed, and giving the value of the surrounding property in bold, plain figures, so that the members of the court and the public could see at a glance whether there was any apparent discrepancy in the assessed values. I would not allow assessments to be fixed up in secret.

"I would make the process as public as possible, so that favoritism would be detected instantly. And I would have the system of valuing property for taxation a continuous one, raising or lowering values, according to the changes of circumstances and conditions. I would abolish the present plan of fixing values at certain periods, or in certain years, and keeping them without change.

"If the owners of great estates and the street railway companies were to be compelled by such a system to pay their fair share of taxes as poorer owners of small dwellings and owners of tenement houses are forced to pay, the tax rate of New York would be reduced one-half.

"This is a practical matter, not a mere doctrine. It squares with business principles. It is just and reasonable. The taxpayers and the rent payers of New York have a tremendous stake in this question, for it lies at the very root of municipal evils. When New York owns her own street railways and other city monopolies, and when the publicity attending the equalization of taxes makes the big property owner pay at the same rate imposed on the small property owner, not only will taxes be lower and rents lower, but local politics will be freed from the principal incentive to corruption—corruption that eats into parties and primaries as well as into sworn officials.

"All this can be accomplished in a year, if the people of New York are in earnest about it," he said. "This question of cities is the greatest practical question of the time. It is pressing for a remedy and the remedy is plain.

"Take the Brooklyn Bridge railway. It has been owned and operated, not by one, but by two cities. Yet, notwithstanding the admittedly rotten element in New York and Brooklyn municipal affairs, that railway, under Superintendent Martin's management, has been the best and cheapest railway in the world.

"No one has ever accused the employes of the Brooklyn Bridge railway of using their positions for political purposes. There, right in the heart of Greater New York, you have a perfect and practical illustration of the great principle for which New Yorkers should fight night and day.

"In my opinion the people of New York will be fools if they let the State Legislature take away from them their right to manage their own affairs. They should resist all charters and all legislation which interferes with home rule, and they should fight for three-cent railway fares and public and continuous equalization of taxes as the first step toward the public ownership of monopolies. That is progress. That is common sense."

Just before his election as Mayor of Cleveland, Mr. Johnson offered to operate the street railways of Columbus, Ohio, on a 3-cent fare and pay 16 per cent. more wages than the present company. Dr. Washington Gladden and Hon. Frank S. Monnett joined Mr. Johnson in the effort to get the councils to make a just contract in the interests of the public instead of extending the franchises on the old basis of a 5-cent fare and low wages. The councils belonged to the street railways, however, and voted away the people's rights. Mr. Johnson and his associates have appealed to the courts to set aside the corrupt franchise grant. From the Columbus effort Mr. Johnson went to Cleveland and was elected Mayor by a strong majority on a platform calling for 3-cent fares and municipal ownership of street railways.

### 3-cent Fares.

Albert L. Johnson, brother of the Mayor, is said to own street railways in many towns of Pennsylvania, and is building a trolley line from New York to Philadelphia, on which he promises not to charge over 50 cents for the whole 90 miles, or one-fifth the present railway tariff. He has startled the franchise absorbers of New York by announcing that he can profitably carry passengers throughout Greater New York for a 3-cent fare.

A few years ago my statement that a 3-cent fare would yield a profit even under private ownership in our larger cities, while a 2½-cent fare would be possible with public ownership, was regarded by some as an exaggeration. But the offers and declarations of such famous railway magnates as the Johnson brothers together with the offers of capitalists in Chicago and Detroit referred to in the body of this book, no longer leave room for a doubt on either branch of the proposition. Public ownership *complete*, i. e., with the roads in the hands of the city, *free of debt* and under good management, with the merit system, direct nominations and the referendum, the elimination of dividends and interest and all political expenses would probably justify a still lower fare.

### Johnson, Wansmaker, and the Philadelphia Ring.

In the spring of 1901, Albert Johnson asked for street railway privileges in unoccupied streets of Philadelphia so that he might carry his passengers from Allentown and other places in the Lehigh Valley all the way into the city, instead of dropping them in the outskirts. He offered 3-cent fares with free transfers and reciprocity in transfers with the Union Traction lines. His bill was pigeon-holed, but a little while afterward the legislature gave the franchises Johnson asked for to a gang of Quay machine politicians. The Governor signed the bills and the Philadelphia Councils made the grants. The Hon. John Wanamaker offered to pay the city \$2,500,000 for the franchises if they were valid. In spite of this the Mayor signed the grants to the conspirators, one of whom characterized Mr. Wanamaker's offer as a "bluff." Upon this Mr. Wan-



amaker wrote a second letter (see the North American, June 22, 1901), in which he offered to pay \$3,000,000 for the franchises if the conspirators would transfer them, \$500,000 to go to them and \$2,500,000 to the city, \$1,500,000 to be used for deepening the Delaware channel and \$1,000,000 for the public schools and agreeing further (1) that 3-cent fares should be established between 5 and 8 A. M. and 5 and 7 P. M.; (2) that the franchises should be sold to the city at any time within 10 years on repayment of the actual monies expended, and (3) that if his offer were accepted he would put the franchises up to auction and give the city any sum bid for them in excess of what he paid for them.

I must quote the last part of this remarkable letter verbatim:

"I am strongly in favor of the principle of making all grants of municipal franchises and utilities conditioned upon the right of the city to resume them at any time upon making reimbursement for the money expended by the private owner. And I may say in passing that I shall lend my influence, for whatever it may be worth, for the exercise of this right where the city possesses it and for the incorporation of such an option in all future grants.

"I say again as I did in my letter to the Mayor that it is not my desire to enter upon the business of railroading or to make any profit out of my municipal franchise. I merely desire the people to see how badly they have been wronged and the magnitude of the value of the property of which they have been despoiled. If you should accept the offer of this letter I will cheerfully put the franchises up to auction and give the city any sum bid for them in excess of that which I shall pay under this proposition.

"If the proposition I have made to you is not acceptable, I should be glad to know what sum will tempt you and your associates to surrender the privileges you now own, and which were obtained by methods so unusual and defiant of the public will as to have aroused the indignation of the people of the entire nation. There may be those who will raise an ethical objection to the payment of any sum of money to persons obtaining valuable property by such methods. As a question of casuistry there may be some force in such objection, but I am advised that the payment proposed in this letter of a half million dollars to you and your associates would not be indictable as the compounding of a felony, but would be defensible as a bonus merely paid for the restitution of public property wrongfully obtained."

Needless to say the conspirators did not accept the offer and the grants remain in their possession. Two millions and a half, and 3 cent fares in the busy hours, with an option of repurchase at cost, and the possibility of larger returns thru a sale at public auction—all lost to the city by the action of dishonest politicians, corrupted by the lust for wealth and the allurements of private monopoly. It is our duty to establish public ownership not merely for the sake of the public but to protect the politicians and monopolists themselves from the influences that are debasing their lives and ruining the best that is in them.

## Cost of Elevated Roads.

Professor Bemis tells me of a New York suit for damages, which has not received the public attention it deserves. X contracted to build certain elevated lines (stations and road) at \$600,000 a mile in round numbers. X then sublet the construction for  $1/3$ , or about \$200,000 a mile. The railway management realizing the amount of plunder they had thrown away, took the contract from X and let it to (themselves) a construction ring of their own. X brought suit for damages, and it appeared in evidence that as by his contracts he was to receive \$600,000 a mile and pay only \$200,000, his profits would be \$400,000 a mile (less what he had to pay to get the contract). This may help to explain why it is that L Roads are so often capitalized so far beyond the real cost of duplication.

## Reasons for Municipalization of Street Railways.

An interview with the present writer by Mr. Flower of the Arena brings out so forcibly some points in the argument for public ownership, and in reply to objections, that it is deemed wise to insert the conversation here. The repetition of some things already in the book is more than compensated by the condensation and regrouping of leading points, affording a bird's eye view of the summits of public ownership philosophy.

Question by Mr. Flower. You favor public ownership of street railways and other municipal monopolies, I believe?

Answer by Professor Parsons. Yes.

Q. For what reasons mainly?

A. Because the great franchises and monopolies whose value is created by the people should be administered for the benefit of the people and not for the benefit of a few. Public ownership means a change of purpose, from private profit to public service, union, co-operation, removal of the antagonism of interest between owners and the public, economy, co-ordination with other services, increase of business, lower rates, better service, better treatment of employees, no strikes, no stocks to water or gamble with, profits for the people instead of the speculators and monopolists, less fraud and corruption, larger civic interest and improved citizenship, better government, less aristocracy, more democracy, diffusion of power and benefit, better organization of industry, and advance in civilization.

Q. Do you really believe government ownership means all that?

A. I did not say government ownership means that; I said *public* ownership means that.

Q. The same thing, is it not?

A. Not by a good deal. Government ownership may be public ownership, or it may not. It depends on whether the people own the government. Russia has government ownership of railroads, but there is no *public* ownership of railroads in Russia, for the people do not own the government. Philadelphia has not had real

public ownership of the gas works, because the people do not own the councils. If the government is a private monopoly, everything in the hands of the government is a private monopoly. The public ownership of monopolies requires the public ownership of the government; for two reasons: first, because the government is itself a monopoly, and, second, because the public ownership of other monopolies is not possible without public ownership of the government. Public ownership of the government requires fair nominations and elections, direct legislation, and the merit system of civil service; wherefore these measures must form a part of any thorough plan of public ownership.

Q. You would not advocate the transfer of the street railways, then until the people have full control of the government, through direct legislation, etc.? You would not advise government ownership until it would be public ownership also; is that your idea?

A. No; that is going too far the other way. I would not advocate *government* ownership unqualifiedly; for a transfer from a small body of stockholders, or a corporation owning the roads, to a small body of politicians owning the government, *might* be a jump from the frying-pan into the fire. But, on the other hand, such a transfer *might* be the very means best calculated to destroy the rule of the politicians. It is a question of the degree of civic spirit in the community. In a city of reasonable intelligence and freedom the municipalization of great industries will rouse the people to demand good government as the only means of accomplishing the purpose of the industrial transfer. The attempt to establish public ownership of street railways and other monopolies in a thinking community must lead to public ownership of the government as the only means of securing the public ownership of industrial monopolies. In a reasonably decent community, therefore, under our form of government I would advocate government ownership of industrial monopolies as a step toward real public ownership of both industry and government.

Q. Would not the transfer of the street railways increase the corruption already far too prevalent in our city governments?

A. Not unless the removal of the chief cause of corruption would increase corruption. It is the street railway companies and other corporations that buy up our councils, corrupt our legislatures, and manipulate election machinery so as to nominate and elect men whom they can control; and when we demand the abolition of these very corporations that create this trouble, they say, "You'll have a terrible time if you get rid of us. See how rotten your government is." We reply, "You made the government rotten and you keep it so. Get out of the way and we can easily secure good government." It is not the post-office, or the public streets, or water-works, or schools that corrupt our governments, but the pressure of *private* interests. Every great monopoly that is transferred from private to public ownership is one more force compelling the people, rich and poor, to demand good government, in

place of a force impelling a body of rich and influential men to try to corrupt the government. Professor Commons says: "I maintain that nine-tenths of the existing municipal corruption and inefficiency result from the policy of leaving municipal functions to private parties." Professor Ely says: "Our terrible corruption in cities dates from the rise of private corporations in control of natural monopolies, and when we abolish them we do away with the chief cause of corruption." Dr. Albert Shaw says: "The pressure that would be brought to bear on the government to produce corruption under municipal ownership of monopolies like gas, electric light, transit, etc., would be incomparably less than the pressure now brought to bear by the corporations." Governor Pingree says: "The corporations are responsible for nearly all the thriving and boodling from which our cities suffer."

Q. But what about the patronage? One may admit that the purchase of legislation would diminish with the abolition of private franchises, but the patronage would vastly increase, and the temptations to use official power for private gain would be greatly augmented.

A. That is true, but the forces restraining the abuse of official power would be augmented in still greater ratio. At present a large proportion of the richest and most influential men in the community—managers and stockholders in the street railways, gas, electric, and other monopolies—are interested in the election of men who are willing to use their offices for private purposes instead of for the public good. They want men who will work for the monopolies instead of for the people, and the same men are likely to abuse the patronage, of course. But make the great monopolies public, and these same rich and influential men become intensely interested in the election of good men, who will honestly administer these great properties that affect their lives so intimately. Abolish private monopoly, and the rich will have nothing to gain and everything to lose by bad government—no franchises to get from "boodle aldermen," but inefficient street cars, poor gas, blinking electric lights, etc., and accentuated taxes by abuse of patronage. They will therefore join with the common people in the demand for honest and efficient civil service and for the nomination and election of competent and reliable men. Make the street railways, etc., public property, under a provision that they shall not again become private without a referendum vote of the people to that effect, and the interest of our leading citizens as investors in municipal franchises will give way to their interests as consumers and taxpayers. As part owners in private railways and gas works their financial interests are opposed to good government, but as part owners in public railways and gas works their financial interests would demand good government. As stockholders their money interest is a class interest, largely antagonistic to the public interest, but under public ownership their money interest in the railways would be identical with the in-



terest of the rest of the community—their private interest would coincide with the public good. Few matters are more important than this change of interest and civic relation of men of wealth and power; for, as Mayor Swift of Chicago told the Commercial Club of that city, December 28, 1896, it is precisely those men of wealth and power who are responsible for the corruption of municipal government. "Who bribes the Common Council?" said the Mayor. "It is you representative citizens, you capitalists, you business men." And they not only bribe the councilmen but secure or permit the election of men who will use their power for private gain instead of for the public good, and so debauch the civil service. To annihilate abuse of patronage we must adopt a thorough system of civil service, based on merit and efficiency, and nothing can more surely bring this to pass than a great increase in the weight and importance of public business. Not only will the public ownership of monopolies compel the rich to stand with the poor for good government, but the people in general will be stimulated to new effort for better administration. They will say, "With these great properties in our hands the public business has become far too important to trust to rascals. We'll elect the best men we've got to manage these great interests." It has worked that way across the sea, the increase of municipal ownership being recognized as one of the chief influences in purifying the government in Birmingham and other English cities, and the logic of the situation clearly indicates that public ownership must operate in the direction of political purity.

Q. Why not sell the railway franchises at auction, tax the companies a good per cent. on their incomes, and regulate them thoroughly instead of attempting to own and operate them? I understand that New York follows this plan with good results, bids of 20 to 45 per cent. of the gross receipts having been secured, and in some cases much higher bids.

A. I do not think those very high bids have materialized. One road in New York bid over 100 per cent.,—more than the total receipts, for a franchise connecting two of its lines, and then refused to pay anything. It made no charge for carrying passengers over the link, and any number of times 100 per cent. of no receipts is still nothing. There is no doubt, however, that Toronto, Baltimore, and some European cities have received large returns on this plan of taxing the railways. Such methods are an improvement on the usual plan of giving the franchises away (for a slight consideration to the legislators perhaps) and taxing the people for the benefit of the companies; but public ownership would be better yet. Tax the railways, and you benefit chiefly the well-to-do, who pay most of the taxes. Make the roads public and reduce the rates, and you benefit the great mass of the working-people who most need benefiting. Moreover, regulation of these big city monopolies has proved a failure. The railways control the commissioners and regulate the regulators. Even at the best you cannot fix the law so that regulation will equal public



ownership. A business owned by the people and operated by their agents is a good deal more apt to be run in the interests of the people than a business owned and operated by a Morgan syndicate. As long as you leave the railways in private hands they will be run for private profit; the owners and managers will have enormous power linked with a business interest antagonistic to the public interest, and they will seek to evade or nullify any law that stands in their way. Nothing but public ownership can identify the interests of the owners and the public, and so remove the antagonism of interest which is the fundamental cause of all the evils of private monopoly.

Q. How great a reduction of fare would you expect under public ownership of street-car lines in our leading cities?

A. After thorough investigation of the subject I think a three-cent fare with free transfers would cover all costs, including depreciation and interest, in such cities as Boston, New York, Philadelphia, Chicago, St. Louis, Buffalo, Detroit, etc. Responsible capitalists have offered to run the street railways of Chicago and Detroit on a uniform three-cent fare, and these men expect to pay costs and make a profit on watered stock besides. A three-cent fare has proved remunerative, even on one of the worst lines in Detroit, although the experiment was made under very disadvantageous circumstances and against the strenuous opposition of the main companies, who did all in their power to defeat the scheme and throw discredit upon it. There used to be a three-cent fare for school children in Boston. The Highland Company, running its cars from Grove Hall into town, sold one hundred tickets for three dollars. Buffalo cars carry children for three cents now, and the average of all fares is only 3.6 cents, yet a good profit is made. In Glasgow 35 per cent. of the fares are one cent each, and the average fare is below two cents (1.78 cents average). The payment—

Q. You don't think we could reduce the fare as low as that?

A. Perhaps not. I was going to say that the payment of employees is lower in Glasgow, and business is denser than in our cities—the distances shorter and more passengers to the car mile; twelve in Glasgow, and only seven in Boston, six in Buffalo, five in Chicago, and seven, nine, and twelve on the principal roads in New York. Low fares in Boston or Chicago would probably increase the traffic even beyond the twelve per car mile, and the difference in wages is largely offset by the difference between the horse power in use in Glasgow at the time of the report just quoted and our electric traction, which is twenty to fifty per cent. cheaper than horse power, according to the experts, presidents, and general managers of our roads. The reports of nearly all our city companies show an operating cost of ten to fifteen cents a car mile with electric traction, and four or five cents would cover depreciation, so that, *if our cities owned the roads free of debt*, a two-cent fare would cover all costs on the reasonable supposition that a reduction to two-fifths of the present rate would increase the

traffic to ten and twelve per car mile. Governor Pingree thinks that a two-cent fare in Detroit would cover all costs, including interest. But as a general proposition I believe it would be safer to build on a three-cent fare under municipal ownership until the roads were free of debt.

Q. Your speaking of horse traction in Glasgow suggests that the service on the public tramways there is inferior to the service on our private lines. Is that so?

A. Yes.

Q. Doesn't that upset your argument for public ownership then?

A. I think not. The difference in service is not due to the difference in ownership, but to the difference in the two countries. Private tramways in Great Britain are still more inferior to ours than her public tramways. The Glasgow lines are admittedly superior to the private systems in the same country, and, what is perhaps still more to the point, they became at once superior in every way to the former private systems in the same city. When Glasgow became the owner and manager of its street-car lines in 1894 the consequences were—

(1) A reduction of 33 per cent. in fares—a voluntary movement in the direction of cheap transportation.

(2) The hours of labor reduced from 12 and 14 to 10 per day, and from 84 and 93 to 60 per week; wages raised two shillings a week, and two uniforms a year to each man free—a voluntary improvement of the conditions of labor.

(3) A great improvement in the service. An editorial in the *Progressive Review*, London, November, 1896, says: "The tramways of Glasgow have been made the finest undertaking of the kind in the country, judged both by their capacity to serve the public and as a purely commercial enterprise." Glasgow is one of the first cities in Britain to take steps toward replacing horse power by mechanical traction. She sent a committee all over the civilized world to study the best methods, and an electric system is now being introduced while even London contents itself with horses.

(4) The traffic was greatly enlarged, doubled in two years, by low fares, good service, and the increase of interest naturally felt by the people in a business of their own.

(5) Larger traffic and the economies of public ownership have reduced the operating cost per passenger to 1.32 cents, and the total cost, including interest, taxes, and depreciation, is 1.55 cents per passenger. When the private company was collecting 3.84 cents per passenger it declared that only .24 of a cent was profit. Now the city collects 1.78 cents and still there is about a quarter of a cent clear profit, and this is with horse power, which makes the cost per car mile at least 20 per cent. more than with electric traction.

(6) The profits of the business do not go to a few stockholders, but into the public treasury, to the tune of \$200,000 a year above

all operating cost and fixed charges, interest, taxes, depreciation, and payments to the sinking fund.

Q. You have admitted, however, that the conditions in Great Britain are very different from those that obtain in America. How, then, can any fair inference be drawn from Glasgow's success?

A. I think we may fairly infer that public ownership of street railways here would cause a movement *in the same direction* as in Glasgow. If jackscrews worked ten hours beneath a house in the valley lift it three feet, we may not conclude either that the house will after such lifting stand as high as a house built upon the side of a hill, or that jackscrews worked ten hours under the hill house would raise it three feet, but we may fairly conclude that jackscrews properly placed and worked under the hill house *would lift it some*.

Numerous facts prove that public ownership here *does* produce effects similar in kind to those we have noted in Glasgow. In public business here, as elsewhere, the workers are freer, get more pay and work fewer hours than the employees of the great private monopolies. The public service is good, the charges are very low, and the profit, if any, belongs to the people. Nobody dreams that our roads and schools would be free, or letters carried for a two-cent stamp, if streets and schools and postal service were private property. Our water works and electric plants also make it clear that public ownership tends to lower rates, better service, and diffusion of benefit. The law of cause and effect is not dislocated by crossing the ocean.

The change from private to public ownership of a great monopoly means a *change of purpose* from *dividends for a few to service for all*. This change of purpose is the source of the improvement under public ownership in respect to cheaper transportation, a better paid and more contented citizenship, a fairer diffusion of wealth and power, etc. This change of purpose will accompany the change to public ownership here as well as in Europe or Australia, and, therefore, public ownership of the railways here will cause a movement in the same general direction as in Glasgow: Fares will be lower than they are now; wages higher; hours shorter; service better; traffic larger. And all the profits and benefits of the railway system will go to the public instead of a few individuals. The change may not be the same in *amount* as in Glasgow in respect to any item, but it will be a change *in the same direction*.

Q. If it would be so greatly to the city's interest to own and operate the railways, why are so many of the great daily papers either hostile or indifferent to municipal ownership?

A. Because the men that own and control them are stockholders in the street railways or other monopolies, or dependent on those interested in such monopolies for a large part of their profits.

Q. Why are the public, and especially the taxpayers, so indifferent to a question that so intimately affects their own pocketbooks?

A. Lack of specific information, partly. More largely lack of confidence in government and absence of hope and insight as to the means and prospects of improving it. More largely still, the submergence of public spirit, Christian altruism, and even intelligent self-interest, beneath the struggle for existence and the rush for individual wealth and mastery.

Q. What methods do you believe should be employed to inform the people of their rights and to impress upon them their duties in regard to this question?

A. Direct discussion of public ownership in newspaper, magazine, and book, pulpit, platform, and convention cannot fail to do good. Leading examples, such as the Glasgow tramways, New Zealand railroads, Wheeling gas works, Detroit electric plant, etc., add new vigor to the movement. The rapid growth of municipal ownership and sentiment favorable to it in Europe and America proves the potency of such influences. Over 500 cities own their gas works. In America alone about 400 municipalities operate electric plants, where in 1882 there was but one. Our public water works have risen from 1 in 16 in the year 1800 to 1,690 in 3,179 in the year 1896, or from 6.3 per cent. to 53.2 per cent. of the total. Besides the plants built public from the start, 205 have changed from private to public ownership, while only 20 have changed the other way. In Massachusetts 29 plants out of 67 have changed from private to public, and 75 per cent. of the water works are now public property. From 100 per cent. private to 75 per cent. public in less than a century is a very decided change. There was only one public tramline in Great Britain before 1893; from 1893 to 1895 four cities entered upon the operation of their street railways; from 1896 to 1898, inclusive, ten cities began to operate their tramways, besides a short line in London, and now over thirty cities in Great Britain own and operate their tramways.

Nevertheless, powerful as discussions and examples in the direct line of public ownership have proved themselves to be, I do not regard them as the deepest or strongest influences at work. The tendency to union, organization, coördination, is irresistible;—the same power that builds the trusts, to get rid of one set of antagonisms, is establishing, and will establish, public ownership to get rid of another set of antagonisms. Increasing organization and widening coöperation are the test of advancing civilization, and it cannot be complete in any department of industry till it reaches the all-conclusive coöperation of public ownership, or of universal voluntary federation; and for *monopolies*, the simplest and easiest, and often the only practicable way to obtain the final union is through public ownership.

Deeper even than this industrial gravitation that is drawing us toward economic harmony lies the soul-gravitation that is drawing us toward the still richer harmony of sympathy and brotherhood. Deeper than any economic discussion or movement is the effort to make men realize that loving service makes life far richer than conquest, either military or commercial; that honor and



happiness are measured by what we give the world, not by what we take from it; that love and brotherhood are the true solution of all social problems. When men are really brothers and love their neighbors as themselves, no private monopoly will be possible, no advantage by which a few may hold the many in subjection and live in luxury while others toil will be tolerated. Ennobled manhood will necessitate equal rights and privileges and the public ownership of all monopolies. Deepest of all lie the teaching and training of the young, so they shall not only understand the movements of their time and the difficulties and dangers that surround them, but shall be so filled with the power of love that they will not merely render it lip-homage one day in seven, but obey it with all their faculties every moment of their lives. The fundamental work is to implant in the mind of youth the ideal of loving service in place of the ideal of commercial conquest, and to register in their nervous systems the law of love till obedience to it becomes reflex. Back of every economic problem lies a moral question. Progress in either reacts upon the other. Every advance in real public ownership or co-operation eliminates antagonisms and helps the development of sympathy and brotherhood; and every advance in sympathy and brotherhood necessitates a further movement toward public ownership and co-operation. A nobler manhood is at once the richest result and the mightiest cause of public ownership and the transformation of mastery and servitude into fraternal partnership.

#### Consolidation.

In July, 1900, the Consolidated Gas Co. increased its stock to \$80,000,000 and bought up the other gas and electric-light companies of New York City.<sup>1</sup> And the syndicate that now controls all the gas and electric-light companies of the metropolis is said on high authority to be composed of practically the same parties as the syndicate that controls all the surface street railways in New York. The United Gas Improvemt Co. has testified to having control of the gas companies of over 40 cities, and Pres. Dolan of the United Gas Improvemt, is in many of the large street railway enterprises of the Elkins-Widner-Whitney syndicate, which owns the street railways of New York, Philadelphia, Chicago, and a rapidly increasing number of other cities.<sup>2</sup> Municipal monopolies are affected with same tendency to concentration that is manifest in the railway and telegraph world and the field of national combination dominated by the trust movement.

#### Capitalization.

Although the commission system of Mass. is by no means a solution of the monopoly problem, as we have had occasion to note, yet it has undoubtedly kept down the capitalization of the mon-

<sup>1</sup> William Rockefeller and Wm. C. Whitney are among the trustees.

<sup>2</sup> Prof. Bemis' testimony before Industrial Commission, Dec., 1900.



opolies outside of Boston, and even there has had so much effect that some of the companies have been compelled to get the inflation they wanted through evasion of law by having New Jersey and Delaware and New York trust certificates issued based on Boston gas securities, and by throwing the gas business into the control of the New England Coal and Coke Co. which claims to be outside the commission law because it is a firm and not a gas corporation.

In the case of street railways the average capital in Mass. seems to give good testimony to the effect of the law of 1885 prohibiting increase of stock except for improvements and extensions. Compare Mass. with other states.

## 1897.

Massachusetts .....	\$44,683
Miss. Valley States (Oh., Ind., Ill., Mich., Wis., Minn., Ia., Mo., Ky., with same number cars per mile of track (3.78) as Mass.) average capital.....	91,500
Middle group (N. Y., N. J., Pa., Del., Md., Va., W. Va. and Dist. Col., with 4.56 cars per mile or 23 per cent. over Mass.) average cap.....	138,600

## 1900.

Massachusetts roads .....	\$38,500
Miss. Valley states above.....	91,360
Middle States above.....	153,650

Street Railways Capitalized on their Earning Power, not on their Cost or Value.

Taking the whole country the street railways are capitalized for \$90,000 a mile while the steam railroads (which probably average a considerably higher cost than the street railways) are capitalized at \$60,000 a mile and this is known to be at least double their true value. The bonds, and preferred stock, or the bonds alone frequently represent the whole structural value. The capitalization is not based on investment but on earning power and the net income for street railways averages \$3,300 per mile of track, and only \$2,050 per mile for the railroads.

Bell telephone capitalization is known to be 2 or 3 times the structural value in many cases and more in some, and Western Union inflation larger still. In his recent testimony before the Industrial Commission (Vol. on Transportation) the vice-president of the Western Union states the company's stock and bond capitalization at \$645 per mile of line, and \$130 (\$129.80) per mile of wire, and compares it with the British capitalization, which he estimates by adding to the outstanding capital debt the whole cost of extensions and improvements from the start (although these were included in current expenses in an earlier part of his testimony dealing with the English deficit) and making no allowance for depreciation. "Men may come and men may go, but I go on for ever," is the song of capital when a monopolistic corporation writes the music. Private monopoly does not believe in burying its dead

capital, but keeps it on the register as a basis for taxation, not of itself, but of the people. Monopoly's census of capital includes as present population all the inhabitants who have ever lived in the building since it was put up. Besides this gratuitous inflation of the British capital, by applying corporation methods to its estimate, it is well known that England paid the companies at least four times the value of the lines, and probably 5 or 6 times their value. I suggest that it would be better to take for comparison the capitalization in some country that has not made such a dropsical purchase,—France, or Belgium, or Germany, making due allowance of course for difference of wages, etc. Better still, to compare the \$645 a mile with the cost of construction in this country,<sup>1</sup> or with the Western Union's claim in recent tax litigation in Ohio, that its whole property in that state did not cost over \$103 per mile of line.<sup>2</sup>

Even this probably does not show the real inflation in Western Union capital, for the vice president took the whole mileage of poles and wire reported by the company, which, as we have seen there is reason to believe is the sum of all the lines bought and built from the start, many of them now in the junk heaps. Allowance for this would make the divisor smaller and the quotient larger.<sup>3</sup>

The vice president admits that the "capital of the Western Union Company has resulted from the amalgamation of a large number of telegraph companies from the beginning," and every business man knows that when companies amalgamate the resulting capital

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<sup>1</sup> Western Union reports show cost of construction varying from \$75 to \$100 per mile of line and \$21 to \$70 per mile of wire, on an average for large blocks. For the year ending June 30, 1894, President Eckert reported the construction of 1,300 miles of new poles and 22,000 miles of new wire, one-half of it copper, at a total cost of \$557,021, or \$21 a mile of wire. In the report of October, 1895, President Eckert says that \$574,639 was spent during the year in 15,784 miles of new wire, two-thirds of it copper, and part of it on new poles (817 miles)—about \$75 per mile of single line and \$35 per mile of additional wire. Colin Fox, a Western Union builder, testified that he had built lines for the company from 1868 to 1876, constructing 500 to 800 miles of poles in Michigan (some of it 2 or 3 wire, but generally 1 wire line) at a cost of \$75 a mile and \$30 a mile of additional wire. (Sen. Rep. 577, 48th Cong., 1st Sess., p. 6). In 1884, Dr. Green, president of the Western Union testified that the average cost of the Western Union line was about \$45. (*Ibid.*, part 2, p. 227). During the year ending June 30, 1895, 2,684 miles of poles and 20,370 miles of wire that constituted the American Rapid Telegraph Company, has been bought by the Western Union for \$550,000 in its stock at par, or \$27 a mile of wire (Western Union Reports, 1894, 1895 and U. S. Statistical Abstract for 1894, p. 363). The actual market value of the stock payment was \$22 a mile, and the Rapid lines were among the very newest and best the Western Union has ever bought. See further Sen. Doc. 65, 56th Cong., 1st Sess., pp. 27-30 where many data on construction cost are collected from various sources, public, private, domestic and foreign—all tending to confirm the drift of the figures given above.

<sup>2</sup> *Western Union Telegraph Co. v. Auditor of Ohio*, 61 Fed. Rep., 447, State v. Jones, 51 Ohio St., 492; 165 U. S., 194, Feb. 1, 1897; and see 61 Fed. Rep., 9, reversing the decision of 61 Fed. Rep., and holding the law constitutional, the State Supreme Court in 51 Ohio, and the U. S. Supreme Court in 165 U. S. having sustained the validity of the statute.

<sup>3</sup> See Sen. Doc. No. 65, 56th Congress, 1st Session, p. 30; Blair, Sen. Com. on Education and Labor, Rep. on "Labor and Capital," 1883, Vol. 11, p. 1277; Bingham Hearings on Wanamaker Bill of 1890; House Com. on P. O., p. 76; and House Rep. 114, 41st Cong, 2nd sess., p. 85—giving the statement of G. S. Thompson, a prominent telegraph builder of New York. In which he says: "It must be remembered that the estimate (in its report) of the quantity of lines owned by the Western Union has been predicated upon a computation made by simply adding together all lines that have come into its possession. Many of these wires have now ceased to exist, and others that are still standing are not in operation."

is usually a good deal more than the sum of the former separate capitals. What the people want to know in this connection is the relation between capitalization and the real value of the plant. The practice of heavily capitalizing franchises given by state and city, thereby compelling the people to pay dividends on legislation and interest on abstract privilege, is a very questionable practice. Labor and capital actually invested are the only things that ought to draw income. It is so with the ordinary merchant and manufacturer, and it ought to be so with a telegraph company. The merchant cannot make the people pay interest on a blue book, nor on dead capital, neither should a carrier. Equal rights to all. Fair exchange service for service. No charge for wind, and no tax on the dead.

In England no stock inflation is allowed, at least in municipal monopolies. The companies cannot increase their capital without special permits, and the system of public audit of corporation (as well as of municipal) accounts has been applied to many of the companies with most gratifying results.

Wyoming has for years had a state examiner to audit all municipal and other public accounts and Mr. Allen Ripley Foote, of the Electrical Department of the 11th Census,<sup>2</sup> takes strong ground in favor of the extension of the system to the accounts of quasi-public corporations, in order that the exact facts may be made known as a basis for discussion and legislation.

The recent (1900) report of the U. S. Labor Department on water, gas, and electric-light plants, gives the cost of public works in the United States, and the capitalization of private plants as follows:

Water,	{ Private plants capital.....	\$267,752,468
	{ Public plants cost.....	513,852,568
Gas,	{ Private plants capital.....	330,346,274
	{ Public plants cost.....	1,918,120
Electric Light,	{ Private plants capital.....	265,181,920
	{ Public plants cost.....	12,902,677

A total of \$1,400,000,000, and according to Pres. Roach of the Amer. St. Ry. Assoc., the capitalization of our street railways is \$1,800,000,000, making about 3¼ billions for municipal monopolies outside the telephone.

It is hardly necessary to remark that the above figures do not show the true relation of *values* as between public and private plants.

Carroll D. Wright's report just mentioned contains much interesting material, among other things the cost of making gas in several hundred companies who gave the Government the figures *provided the names of the companies should be withheld*.

The Mass. State Commission will not order a company to reveal the vital facts necessary to a correct judgment in the regulation

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<sup>2</sup> Testimony before Indust. Comssn., Dec., 1900.

of rates,<sup>1</sup> and even the United States Govt cannot or does not get the cost of gas except on promise not to tell the vital facts—the facts necessary to enable the people to proceed against specific companies that may be making unfair charges. We can have all the averages we want, but we are not allowed to know the precise facts about any particular company.

### The Trend to Public Ownership.

In England 56 per cent. of the water works are public. Over half of all the gas sold outside of London is made and sold by municipal works. Nearly one half of all the electrical energy for lighting and power (street railways, etc.) is municipal. The municipalities own 520 miles of street railway out of 987 miles and operate 233. Over 30 cities have entered on the operation of their tram lines nearly all in the last few years, and the number is increasing as fast as the franchises of the private companies expire. The movement for municipal telephones is now extending rapidly. Glasgow is about to establish an exchange of 10,000 or 15,000 subscribers, and in London the work is soon to begin. The rates are to be little more than half those of the private companies. Municipal operation of water, light and tram plants has given much satisfaction. "The transfer to public management has been attended with enormous development of plant and output and large reduction in charges."<sup>2</sup>

See further "Water" and "The Telephone" below.

### Water.

A writer in an engineering journal says the table on p. 193 may be taken as evidence of the superior wastefulness under public ownership rather than proof of the greater service of public plants. There is some ground for that criticism if the columns relating to consumption per family are taken alone, but if the miles of mains, and the hydrants and taps are consulted the proof of wider service under public ownership is clear. One of the commonest facts in relation to public ownership generally is the increase of fire hydrants and the extension of mains into the suburbs and less remunerative districts so that the whole community may be supplied.

Of the 78 cities having more than 50,000 population in 1900, only 19 have private ownership of water works, and while the cities have not all had sense enough as yet to adopt the meter system and to filter the water, yet public ownership is, on the whole, so much more satisfactory than private that public sentiment is overwhelmingly in its favor and practically the whole move-

<sup>1</sup> In the case of Springfield v. Gaslight Co., the Commission would not require the Company to report what it was paying for coal or oil, though the Company claimed that was vital and would prevent a just reduction of rates. See Prof. Bemis' testimony to Indust. Comssn., Dec., 1900, p. 92.

<sup>2</sup> Prof. Bemis to Indust. Comssn., Dec., 1900, p. 94.



ment in this field is in its direction—many changes to public ownership, almost none the other way. Over half the water works in this country are in public hands and the same is true in England as we have seen.

#### Electric Light.

In Detroit the operating expenses are now (1900) but \$40.30 per arc of 2,000 candle power, which with interest at 4 per cent.; depreciation 3 per cent., and lost taxes makes a total of \$66.45 per arc, against \$132 in 1893 under private contract. When the city was considering public operation the best bid it could get was \$102 on a 10-year contract. The public plant has saved money to the city from the start (see p. 131) and now it is saving the people about \$68,000 a year on the 2,000 arcs—\$68,000 less than the \$102 bid. And if the public station were allowed to do commercial lighting it could reduce the cost a good deal more yet.

In Chicago, Mr. Ellicott with the help of civil service rules reduced the cost of operation to \$55.93 in 1899.

In Allegheny the operating cost with 1300 arcs is \$47.35 per arc. Adding interest, depreciation and lost taxes makes \$71.17. Pittsburgh has succeeded in getting some reduction but still pays the private system \$95 to \$100 for the same light Allegheny gets for about \$71 total.

#### Objections.

Mr. Allen Ripley Foote, one of the fairest opponents of public ownership, bases his opposition on the belief that private management is more efficient than public. In speaking to the Industrial Commission he said, "The larger, the more efficient," and the question being put, "You say that the larger, the more efficient it will be; that is, the more wealth it has in it. Now, would it not be better if the whole people go into it, when it would be still larger? Ans. It would be, barring this one factor. If you take the whole people in, and you can get men sufficiently patriotic to work for the people as a whole as loyally or as interestedly as they would if it was their own business. \* \* \* But that condition does not exist. When you eliminate the factor of self-interest from an industrial proposition, you have eliminated a factor of efficiency in the management."<sup>1</sup>

Mr. Foote admits that public ownership would be better than private if there were no loss of energy and efficiency. Many a man now acts in the public as faithfully and energetically as in his own private business, and all can learn to do so. John Wanamaker as Postmaster General neglected his private business to put his energies into the public service. The president of the Birmingham gas works was a very able man and made a magnificent record. Now the gas works have become the property of the city, and the

<sup>1</sup> Testimony before U. S. Indust. Comssn., Dec., 1900, p. 117.



former president's son has gone into the council with the ambition of being chairman of the gas committee and making as fine a record for the management of the public plant as his father did for the private management. Professor Bemis has recently studied municipal enterprises in 20 or 30 cities of Great Britain and while he found that there was some difficulty, except in Scotland, in getting the ordinary workmen to labor as energetically for the public as for a private owner, yet the superior progressiveness manifested by the public management, putting in machinery in large quantity and of the best kind, more than overcame the slight difficulty as to the energy of some of the workers and also overbalanced the effect of the higher wages and better hours afforded by the public plants, so that the net result was a slightly lower average of operating expenses in the public plants than in the private.<sup>1</sup> In the long run intelligent, well paid labor is more efficient than unintelligent, ill-treated labor, and as public ownership tends to better wages and better hours, and better treatment of labor in every way, it must in the long run tend to greater efficiency tho its effects in this respect may not always be visible at once in the case of workers brought up under the private system and not sufficiently long in public work to become adapted to the new order. The true efficiency of public work will only be seen when generation after generation of children have been trained to it and filled with its ideals.

There is no doubt that a considerable amount of public business now is done on a low plane of efficiency. So also is a large amount of private business. The whole competitive system is most wasteful and inefficient. Co-operation alone can reach a high degree of efficiency when the whole of an industry is looked at. Public operation can be and in many instances has been made as efficient as any private corporation, and the way to attain efficient public enterprise is not to leave the private companies in possession but to enter upon public management and perfect it by experience and the developmt of new habits of thought and action in harmony with it. It is perfectly clear that men can learn to act with the greatest energy and efficiency without the incentive of private profit. Look at the soldier enduring 50-mile marches, the terrible toil and danger of battle, the loss of limb, the risk of life, for what? for \$13 a month? No, it is not the incentive of private profit that puts the tremendous energy into the soldier's life.

Look at our fire departments, rushing into the fire, braving the lightning in the treacherous wires, climbing the dangerous heights, enduring by turns the scorching flames and the drenching chill of water, struggling like heroes to rescue property that does not belong to them.

Look at the editors and authors, doctors, ministers, discoverers and philanthropists. Thousands of them could get more money in other callings and they know it, but labor on because they love the work they are doing; thousands of them spend more money in pushing their work than they make, or can hope to make, out of it; thousands of them are wealthy and do not need to work at all, and

<sup>1</sup> Testimony U. S. Indust. Comssn., Dec., 1900, pp. 95, 96.

yet they toil more arduously than the men who make our streets and our railroads for money.

Look at the women in our homes, who are not supposed to have any use for money—at least the competitive system accords them no salaries for what they do; yet they labor more hours and in far more exhausting ways than the lords of creation do.

Look at a group of children at play. Is it money that makes them tear across the school ground till their cheeks are crimson, and the breath comes fast?

The pleasure of exercise alone, if rightly directed, is motive enough to run the machinery of the world. A young carpenter told me not long ago that he'd "rather work with his tools than eat, any day," and he isn't dyspeptic either. Musicians, painters, sculptors, authors, etc., frequently injure their health through love of their work.

When you add to the joy of exercise, the happiness of doing good, the desire of winning a name and an influence, the pleasure of receiving the approbation of fellow men, and the feelings of patriotism and family pride, you have motives enough, if properly used, to supply the industrial systems of dozens of worlds, without any recourse to money. There is plenty of motive power for public ownership without the money motive if we only utilize it, and even the money motive itself may be made far more effective in public and co-operative industry than it is in the ordinary corporation. The nerve of energy is devitalized in the mass of workers to-day by denying them any share in the profits. Let promotion depend on efficiency in public plants and let there be a return beyond wages in proportion to the savings effected by superior efficiency—a sort of profit-sharing, giving the employes a part of the economies which result partly from their labor and care, and you will have stronger motives to efficiency even from a financial standpoint than private operation usually brings to bear.

To the objection so often made that municipal ownership will increase the patronage of the spoilsman, we reply that the spoilsman himself is strenuously opposing public ownership. He knows very well that public ownership leads to civil service methods that leave no room for him.

#### The Chief Evidence.

In my testimony before the U. S. Industrial Commission, Jan. 4, 1901, on railways, telegraphs, telephones, municipal monopolies and public ownership, I based the case for public ownership mainly on moral considerations, and broad principles of public policy. Emphasizing them at the very beginning of my testimony as the fundamental tests of all institutions whatever. Mr. Clark, vice-president of the Western Union Telegraph Co. and Mr. Bethell, general manager of the New York Telephone Co., in replying to my statement did not attempt any answering argument on the

fundamentals, but dwelt upon material data, making comparisons<sup>1</sup> most of which refuse to hold water altho both their companies have proved *their* ability to hold water in large quantities.

Mr. Clark began with a statement which shows an entire misapprehension of the situation. He says the evidence given the Commission in favor of the public ownership of the telegraph was chiefly based on the conditions of the telegraph in Great Britain, Switzerland and Belgium, and proceeds to point out the disparity of conditions as to population, wires, wages, distances, etc. In fact, however, the said evidence was chiefly based on the broad principle that the fundamental test of any system is its effect on character, justice, government, civilization—the human effects being far more important than any material considerations—and upon the broad facts; (1) That a normal public plant aims at service and benefit for all, while a private monopoly aims at dividends, or profit for a few; (2) That public ownership tends to superior harmony of interest and fuller co-operation, removing the vital antagonism of interest that private monopoly creates between the owners and the public, and transferring the interest of wealthy and influential men to the side of good government and honest administration; (3) That private monopoly means congestion of power and benefit, while public ownership favors diffusion of power and wealth and service; (4) That private monopoly means taxation without representation, with power to make and unmake the fortunes of individuals, cities, states and nations—sovereign power in private hands; (5) That in the same country, and under similar conditions, otherwise than as to ownership, the change from private to public ownership has resulted in superior service, lower rates, better treatment of employees, less corruption of government, improved citizenship, nobler manhood and higher civilization; (6) That the movement of civilization is toward the public ownership of monopolies, etc., facts entirely independent of the “disparity of conditions” in wages, wires, offices, rates, distances, etc., to which Mr. Clark directs attention. These material elements are of much importance, and furnish, I believe, strong evidence for public ownership, but not the chief evidence. The philosophy of public ownership and co-operative industry rests primarily on considerations entirely above the material plane, and wholly out of range of these statistics of dollars and wires and offices and telephones,—as far out of range as good government,

<sup>1</sup> See below “Corporation Methods” and “The Telephone.” For further arguments and data on public ownership see Prof. Parsons’ articles on “The Peoples’ Lamps” (electric) in the *Arena* for 1895; on “The Telegraph Monopoly” in the *Arena* for 1896-7, or the Government reprint of them in Senate Document 65, 56th Congress, 1st Session, or the revision in *Equity Series*, Vol. 1, No. 4. Also, Prof. Parsons’ testimony and supplementary statement to the Industrial Commission, Vol. on Transportation, Jan. 4 and 5 and Aug. 6, 1901, on railways, telegraphs, telephones and municipal monopolies, and before the U. S. Senate Committee on Interstate Commerce, May 18, 1900 (Sen. Doc. 420, 56th Congress, 1st Session), and the testimony of Prof. Bemis and Allen Ripley Foote before the Industrial Comsn., Dec., 1900.

public spirit, partnership, and brother-love are out of range of the stock exchange.

Mr. Clark did not even *touch* the fundamentals except when he answered "No" to the question whether or not he approved of the principle (adopted in Europe, Australia and New Zealand) of administering the telegraph to secure the greatest public service, rather than for profit—expressing dissent from a principle, which if admitted establishes the case for public ownership and co-operation, since philanthropy is not practicable as a general business foundation, and public ownership or co-operation are the only other things that can make it an aim to forego profit and so extend the service to its widest limits. Private monopoly *must* say, "No" to the greatest service principle, for profit is an essential condition of its continued existence, and profit is inconsistent with greatest service, for, without the profit, rates could be lower and service greater.

Mr. Bethell did touch one of the fundamentals, admitting the powerful movement toward public ownership of the telephone. (See below.)

#### Corporation Methods.

Vice-president Clark gives other proof of familiarity with corporate method of argument, besides his attempt to switch the discussion from the fundamentals to comparatively unimportant material data. He includes all items of cost for extensions and improvements in the current expense account in England to swell the deficit, and afterwards adds the same items to the construction account to swell the capitalization. He compares American rates from New York with European rates from London without mentioning the fact that in one case the rates relate to internal land routes and in the other to *international* routes including *cable* transit. He states the Western Union capitalization as \$645 a mile (see above) but declines to comply with a request to supply the Commission with back reports of the Western Union showing construction cost.<sup>1</sup> He tries to show that rates are only a little higher here than in England by assuming 11 words as the average for address and signature (the real average is 7 words according to Pres. Green of the W. U.) and comparing the cost of 21 words in this country with the cost of 21 words in Great Britain, ignoring the fact that the average message is known to be only 15 words in Great Britain, that it is the *minimum* charge at which any message can be sent and the average charge that chiefly determine the use of the telegraph, that a message may be sent anywhere in Great Britain for 12 cents while the ordinary minimum charge

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<sup>1</sup> Those back reports are very interesting not only because they throw light on construction cost, but because they show a variation of 50 per cent. in the statement of charges and costs for the early years—the statements in the reports issued at the time being very different from the statement of the same facts in recent reports. Sen. Doc. 65, 56th Cong., 1st Sess., p. 108, n. 4 and authorities there cited.



from one point in Mass. to another point in Mass. is 25 cents, (same in N. Y., Pa., etc.) and that the average charge per message here is 31 cents against 15 cents in Great Britain. He endeavors to prove that telegraph developmt is greater here than in England by comparing telegraph offices and postoffices in the two countries.

His statement—76,000 post offices, and 39,000 places reached by the telegraph connections in the United States, against 40,000 post-offices and 10,816 telegraph offices in Great Britain, shows the telegraph reaching 50 per cent. of the post offices here, and 25 per cent. in Great Britain, as he says. But the statement is invalid; (1) Because the witness' own exhibit "B" shows that only 29,000 places are reached by telegraph and telephone, 39,000 being there given as the total number of telegraph and telephone offices in the country; (2) Because the number given for the British telegraph offices is the figure for more than two years ago, while the other factors in the comparison are brought down to date; (3) Because the British postoffices are overestimated. The 1898 report gives the number of postoffices as 21,197, and the telegraph offices 10,483; (4) Because telephone connections are included in the American figures, and not in the English; (5) Because about  $\frac{3}{4}$  of the Western Union offices are railway offices if the same ratio holds as a few years ago,<sup>1</sup> while less than  $\frac{1}{4}$  of the British offices are railway offices; (6) Because there is no mention of the fact that in Great Britain every postoffice and every post-box is a place of deposit for telegrams; (7) The figures, even if correct, would only show that Great Britain had a much greater relative development of postoffices than we have—the inference that the telegraph development in Great Britain is relatively less than in this country is wholly unwarranted, even on the figures as they stand, since 10,816 offices is a more extensive service for the United Kingdom, with 120,973 square miles than 39,000 for the United States with 30 times the area.

(8) An hour or more later in his testimony the vice-president forgot about the wonderful extension of the telegraph in this country and said, "If you are going to extend the telegraphs in the United States \* \* \* as was done in Great Britain, to carry it to every hamlet, \* \* \* you have got to provide the means somehow to build the lines out to every nook and corner," admitting, after all his cotwisted argument to the contrary, that telegraph development is vastly greater in Great Britain than in America.

He said he didn't know of any invention by which messages were sent in Roman letters, and a moment later being cornered by a question he admitted that "it is done, but only for short distances," etc., etc.<sup>2</sup>

<sup>1</sup> See Sen. Doc. 65, p. 32, Bingham Com., hearing of Mr. Thurber, testimony of Mr. Wilman, a director of the Western Union, p. 22. (See to same effect, testimony of President Green, Blair Com., vol. 1, p. 881.)

<sup>2</sup> For further analysis of Mr. Clark's interesting remarks see my supplementary statement to the Industrial Commission, Vol. on Transportation.



Other illustrations of corporation logic will be found under the next title.

### The Telephone.

*Co-operative Telephone Co.*—The latest news (Jan., 1901) from the Co-operate Telephone Co. of Grand Rapids, Wis., reveals the following situation: They have about 300 lines; the average cost is \$42 construction; the cost of maintenance and operation is about 75 cents a month for each line, or \$9 a year operating expenses per phone, \$12 to \$15 total including interest and depreciation. The *prima facie* charges are \$1 a month for residence, \$2.25 for business telephone per month. Each subscriber has a right to take one share of stock and is urged to do so, \$50 per share, and nearly all, over four-fifths do take one share each. One and one-half per cent. dividends per month are paid back upon these shares, amounting to 75 cents for each shareholder. So that the *actual* charge to a member for a residence phone is 25 cents a month, and the actual charge for a business phone is \$1.50 a month—the net charge to a member is \$3 a year for a residence phone and \$18 a year for a business phone, to which may be added \$2 or \$3 for interest. They are continually reducing their rates and even after paying these dividends they have a surplus fund for improvements. The former Bell Company was charging \$36 a year for a residence phone and \$48 for a business phone, and refused to reduce their rates. They said they could not afford to reduce rates. Yet the people of Grand Rapids are now receiving telephone service at less than a third of the former monopoly rates. (See p. 119.)

The *Interior Department* exchange (p. 117) has been given up. The installation did not prove satisfactory (a thing that has happened many times in private systems also) a wider service was desirable, and the Bell folks reconsidered their refusal to make reasonable rates to the Department and now supply a full service, including long distance facilities and all, at rates that come down close to the cost under the Department system, perhaps all the way down considering the additional facilities furnished. The Department could not put in a system covering the city of Washington, much less a long distance service, and it was in every way wise to go back to private phones after giving sufficient demonstration of what public ownership could do, to compel the Bell to reduce its charges from \$60 and \$125 to \$18 and \$24, which are about the present charges as learned from an official of the Department.

The *Independent Telephone* movement is demonstrating the exorbitant nature of Bell charges. In *St. Louis* the independent rates are \$36 residence, \$50 doctor's and \$60 business, unlimited direct service. The Bell rates ran from \$120 down to \$60 for party service. The new company has rapidly gained subscribers while the Bell has lost, having but 4,200 against 6,000 in the independent system. In *Rochester* an independent co. charging \$36 and \$18 has outstripped the Bell, and another in *Indianapolis* charging \$24 and \$40

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For other amusing instances of Western Union jugglery with facts and figures see Sen. Doc. 63, 56th Cong., 1st Sess., p. 108, n. 4, and pp. 139-141 et seq., and "The Telegraph Monopoly," *Equality Series*, Vol. 1, No. 4, p. 159, n. 37, and pp. 209-202, &c.

against the Bell's \$48 and \$72, has built up a strong exchange. The new company in Rochester had 3,600 subscribers early in 1901 while the Bell had dropped to 400. In *Richmond, Va.*, the Bell rates were \$60 and upwards. An independent co. came in with \$24 residence and \$36 business. The Bell then put down its rates to \$18 and \$30 but has recently made the same rates as the independent. In *Baltimore* the independent company charges \$36 a year for a residence phone and \$48 for a business phone unlimited, direct; while the Bell rates are \$60 for direct wire 700 calls, with \$100 residence and \$125 business unlimited. The independent has gained very fast, and the total telephone stations in the city has risen from 8,000 at the close of 1900 to 13,000 Aug. 1, 1901. In and around *Boston* Pres. Holbrook's Massachusetts Telephone Company is putting in phones and operating them on the basis of \$3 a hundred calls or \$12 to \$36 for an ordinary residence subscriber, up to \$72 for unlimited business service with underground wires in the heart of a giant city—rates that will work out an average considerably below \$50, since the New England Bell rates, which are almost double the Holbrook rates, work out to an average of \$58 per phone. Mr. Holbrook's data indicate that Bell monopoly rates are more than double what the system can be operated for either in the towns or in the large cities. *Philadelphia* has an independent company now putting in wires for over 5,000 subscribers already secured at rates about half the Bell charges. The Bell makes a rate as low as \$30 for 500 calls but it is on a 6 party line and is of little use. The active Bell rates are \$60 on a two party line, 600 calls, with \$130 residence and \$160 business unlimited. The new company charges \$36 for a two party line, with \$48 residence direct, and \$80 business, all unlimited. There is an independent system in *Cleveland* also, charging \$36 and \$48 against the Bell's \$60 and \$82, and the movement is under way in *New Orleans* and a number of other cities. I am informed by two leading telephone managers (who know the inside facts about the business in *Cleveland*, *Rochester*, *Indianapolis*, *St. Louis*, etc.) that the independent systems with rates about half the Bell charges are making large profits. Millions are being put into the extension of the independent system. The companies are associated and are establishing a long distance service of their own to rival the Bell. The independent movement has proved that Bell rates are more than twice too high.<sup>1</sup>

In his testimony to the Industrial Commission, Mr. Bethell, general manager of the New York Telephone Co., devoted himself chiefly to the effort to show that telephone development is greater under private ownership than under public management. To do this he took the heart of New York and compared it with the whole of Paris and Berlin, and selected a few of the best developed American cities as a basis of comparison with European cities.

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<sup>1</sup> The independent movement is worthy of warm support. Our people do not seem ready yet for municipal or co-operative ownership in the larger cities, and the monopolies thru doctored accounts or control of the authorities having the power to regulate rates, usually prevent just regulation, so that competition offers the most immediately practicable means of stopping the Bell extortions. Yet it cannot be denied that the method is a costly one. It means a war of competition with two exchanges where there should be but one, the necessity of hiring a telephone in each system if you want full communication, or else an agreement and probable ultimate consolidation of the two companies, as in *Detroit* where the Bell absorbed the independent and put up the rates again. How much better it would be if men could only learn to act on the co-operative or the municipal principle at the start. The ideal telephone service would seem to be a national postal system of trunk lines, with local exchanges co-operative or municipal, under broad provisions to secure reasonable uniformity of equipment, etc., and with measured service in large places and a double flat rate (residence and business) in small places.

His comparisons are rendered worthless for his purpose because of the mixture of other causes, the difference in general civilization and progressiveness, and the unfair selection of cities.<sup>1</sup>

That New York (Manhattan and Bronx) has 26 telephones<sup>2</sup> per thousand people, while Paris has 13 per thousand proves nothing as to public ownership, because there is even a greater difference in favor of New York in respect to transit and other interests, which are private in both cities. This vitiates the comparison aside from the selection of the heart of New York for comparison with Paris, instead of taking the whole city, Greater New York. It would be fairer to compare London's 7 telephones per thousand people under private ownership with the 13 per thousand in the public system of Paris, for general conditions are more similar in London and Paris than in New York and Paris. It should be noted also that the 7 per thousand of the private system in London, and the low development in Warsaw and Moscow and other half civilized places are among the principal factors in pulling down the average of the European cities dealt with by Mr. Bethell. Instead of comparing the 26 telephones per thousand of population in the heart of New York with the 25 per thousand in the whole of Berlin, why not compare Philadelphia's 16 telephones per thousand, or Washington's 14 per thousand, or Brooklyn's 11 per thousand, with Berlin's 25 per thousand?

<sup>1</sup> Some attention is also given to showing how the Company has put in measured service at reduced rates, \$60 in Manhattan on a two party line 600 calls. In Greater New York the rates run from \$24 to \$240. The company is undoubtedly entitled to credit for its enterprise and its introduction of the measured service system, but the picture is not quite as lovely as the general manager paints it, see below, "Corporations in Politics."

<sup>2</sup> Mr. Bethell's "26 stations per thousand" and "\$85 average rate," are not fair data for comparison with European direct line, city exchange, full service figures.

In order to show that Mr. Bethell's case will not stand even on his own data, I have taken his estimate of "54,647 stations" or "26 stations per thousand" for New York (Manhattan and Bronx), and have used it also in estimating the telephone development of Greater New York. These data, however, as well as Mr. Bethell's estimate of \$85 as the average rate, are not fair data for New York in comparing it with European cities, for the reason that they are based on figures that include all the phones in the private branch exchanges, which are very numerous in New York and other large American cities, but are little used abroad. In a foreign city the number of stations substantially represents the number of lines in connection with the central exchanges, while in New York the number of stations is about 42 per cent. more than the number of lines. Mr. Bethell gives the number of stations in New York as 54,647, Jan. 1, 1901. The number of lines in the city exchange system was only about 31,750, or 15 to 16 per thousand of population. Most of the private phones are for communication between different parts of the same establishment, and are used wholly or almost wholly for that purpose and little or none in connection with the city exchange, and the rates run down as low as \$8 to \$12 a year, as Mr. Bethell himself informs us. Mr. Bethell's inclusion of such phones in getting the average rate and the average development to compare with European figures which stand for direct line service in the city exchange is clearly unfair.

President Thomas, of the Independent Telephone Association of the United States, to whom I am indebted for these facts, tells me that 15 per thousand and \$183 average rate are the true figures for New York on the direct line basis, which is the fair basis for comparison with Europe. Some of the phones in the private branches, however, are used in connection with the telephone system of the city, and moreover, New York is entitled to some credit even for private phones in estimating development; wherefore, I think the fairest comparison lies between Mr. Bethell's figures and those of Pres. Thomas—18 or 20 per thousand for New York perhaps, and 16 for Greater New York. Similar considerations apply to Mr. Bethell's comparison of development in Boston, San Francisco, etc.

The lowest rates in New York (M. & B. measured service) are \$60 two party line, and \$75 direct. Direct line business unlimited \$240. Pres. Thomas says "From the records of the New York Telephone Co. (Mr. Bethell's Co.) we find that the average number of calls per subscriber's line per day is 10.6. Assuming that the average user (of the city exchanges) has 10 calls for each working day, he will use 3,000 calls per year, the rate for which connection, according to the schedule of the N. Y. Telephone Co., direct line basis, is \$183 a year." This is the figure for New York in comparison with \$60 in Paris, \$75 in London, and \$16 to \$45 in Berlin.

With smaller places, Larchmont's 180 phones per thousand people is contrasted with Trondjhem's 38 per thousand, but it is not explained that Larchmont is a gilt-edged residence town filled with wealthy New Yorkers, while Trondjhem is a city of more than 30,000 with the various classes of people in ordinary proportions. It would be fairer to contrast the 6 telephones per thousand in the Bell system in Chester, Pa., (34,000) population, or the 10 per thousand in Camden, or the 19 per thousand in Trenton, N. J., or the 14 per thousand in Wilmington, Del.

If a city of low general condition shows a higher telephone development than another city that is in general more civilized and progressive, then some valid inference may be drawn as to the effect of differences in rates and management. But if the more civilized and progressive city has the higher telephone development, that is what might be expected even in spite of overcharges. The truest comparison is between public and private ownership in the same place, and Mr. Bethel's statements about Stockholm and the movement from private to public telephone systems in Amsterdam, Denmark, Sweden, Austria, Switzerland, France and England, are of the deepest moment. But his attempt to prove the case for private management by comparing American cities with European cities is futile, as the following table demonstrates by taking Mr. Bethel's data (the first 20 lines are a tabulation of his principal facts) and adding to them a sufficient number of other cities to show the selectivity exercised by him, and the low development of many private systems.

Population, 1900.		Rates.	Number of Telephones per thousand inhabitants, January, 1901.
New York City (centre.....)	2,050,000	(\$60 p. m., to \$240 } average \$85 (?) }	26
Berlin*.....	1,884,000	\$16 to \$45	25
Paris*.....	2,536,000	\$80 (\$60 now)	13
London.....	5,633,000	\$60 and \$100	7
Manchester, Eng.....	543,902		19.6
Amsterdam,* Hol.....	513,000	\$36 and \$46	8.7
Rotterdam,* Hol.....	309,000	\$26 to \$38	10
Boston.....	560,000		42.3
Vienna,* Aust.....	1,635,000	\$40	8
Budapest,* Hung.....	729,000		8
Brussels,* Belg.....	564,000	\$50 and \$70	8.4
Antwerp,* Belg.....	278,000	\$50 and \$70	10
Zurich,* Switz.....	152,000	\$10 to \$160	4.1
Milwaukee, Wis.....	285,000		30
Louisville, Ky.....	204,000		25
Trondjhem,* Norway.....	30,000	\$8 to \$16½	40
Copenhagen, Den.....	312,809	\$27 and \$48	46
San Francisco.....	342,782	\$60 and \$90	62
Stockholm,* Sweden.....	320,000	\$13 to \$27	60
Larchmont.....			180
Chester, Pa.....	34,000		6
Philadelphia.....	1,293,647	\$60 p. m., to \$160	16
Washington.....	278,718	\$36 p. m.—\$96 and \$120	14
Christiania, Norway.....	180,000		48
Wilmington.....	76,500		14
Trenton.....	73,300		19
Camden.....	76,000		10
Newark, N. J.....	246,000	\$6 m. to \$150	17
Providence.....	175,597	\$78 to \$120	38
Rochester, (1).....	162,600	(1) \$36 and \$48	25
Indianapolis, (1).....	170,000	(1) \$21 and \$40 } (Bell) \$48 and \$72 }	17
St. Louis, (1).....	575,200	(1) \$36 and \$60	17
Toledo.....	131,627	\$54 to \$72	21
Detroit.....	285,700	\$21 to \$72	21
Buffalo.....	352,387	\$36 ap	17.7
Springfield, Mass.....	62,000	\$72 to \$93	41
Baltimore (2 Co's).....	509,000	{ \$60 to \$125 } { \$36 to \$48 }	16
Cincinnati.....	325,900	\$60 to \$150	36
Harrisburg.....	50,167	\$48 to \$80	22
Richmond, Va., (1).....	85,050	\$24 and \$36	44
New Orleans.....	287,100	\$21 p. m., \$60 and \$120	15



	Population, 1900.	Rates.	Number of Telephones per thousand inhabit- ants, January, 1901.
Cleveland, (I)+.....	381,768	{ (Bell) \$60 and \$82 (I) \$36 and \$48 }	58 *
Hartford, Conn.....	79,850	\$25 p. \$48 to \$100	30.7
St. Paul.....	163,000	\$30 p. m., \$54 m., \$66 and \$90	33
New Brunswick.....	20,000	.....	22
Jersey City.....	206,000	.....	10
Greater New York.....	3,437,200	\$24 p. m to \$240	20
Richmond Borough.....	67,021	.....	18
Brooklyn.....	1,166,582	.....	11
Queens Borough.....	153,000	.....	1

(I)+ means independent company with a Bell Company also in the field. All the telephone stations of both companies are included in estimating the number of telephones per thousand of population, but the rates given are those of the independent companies, as the lower rate schedule ought to govern development where it has once secured a strong exchange. P. M. means party line and measured service.

\* The places marked with a star have public systems, Stockholm having also a private company in competition with the Government exchange.

The data down to and including Larchmont are simply a tabulation of the principal facts given in the general manager's testimony, except the rates in Trondhjem and Frisco and the population of Berlin, which he did not state, merely saying that it was about the same as New York. The exact figures, however, for 1900, as given in the Statesman's Year Book, show a difference of 166,600.

On page 801 of his testimony Mr. Bethel says: "Jan. 1, 1901, London with a population of 5,633,000, had 41,111 telephones, that is 7 per thousand. Among European cities of its class London's development is exceeded only by that of Berlin." This is clearly incorrect for upon his own data London's telephone development is less than that of Vienna, only about half that of Paris, and less than a third of Berlin's development. The general manager fails to call the reader's attention to the contrast between London and Paris, or to the fact that *none* of the public systems he speaks of in cities of its class (over 1,000,000) have so low a development as the private system in London.

Telephone growth has been much helped in Cleveland, Indianapolis, Richmond, etc., by the independent movement with its low rates and new energy, and yet the greatest density of the telephone business in this country is in San Francisco with comparatively high rates, and what is more the increase of stations is proceeding so rapidly in Frisco that it is now in all probability the leading telephone district of the world among cities of 100,000 or more population, having already attained over 80 per thousand, I understand, before the middle of 1901.

It is clear even from this little table that other causes than the system of ownership are vigorously at work. The variations between 6 telephones per thousand of population in Chester and 7 in London to 62 in San Francisco and 180 in Larchmont, all under private ownership, are much greater than the difference between the public group and the private group.

In speaking of Stockholm Mr. Bethell gives us to understand that the impulse for development came from the private management; the history of the case, however, makes it clear that the progressive impulse came from the government exchange. When the Government entered the field in Stockholm, Mr. Cedergren, manager of the private company, had 5,000 subscribers, and was running along with single overhead wires. The Government started by bringing rates down from \$22 and \$28 to \$16½ and \$22, putting in metallic wires against single wires, underground against overhead wherever possible, direct connection with long distance and free communication with all places within a radius of 43 miles. The company met the competition nobly, gave free service within 43 miles, put in metallic circuits, so that in 1894 there was not a single wire circuit left in Stockholm; and, with the aid of their big start of 5,000 subscribers, the genius of Mr. Cedergren, one of the leading telephonists of Europe, the wealth of the owner who could get along whether he got any profit or not, and the aid of the municipality, which took sides with the company against



the state, the private exchange has been able to keep ahead of the Government exchange in its membership, but it is clear that the impulse for development came from the Government, and not from the company, as Mr. Bethell indicates.<sup>1</sup>

Scattered through Mr. Bethell's testimony are various statements about the history of the telephone in other countries, which statements brought together constitute a powerful exposition of the movement from private to public ownership.

In *Holland* the telephone business was private till 1896 when the two leading cities Amsterdam and Rotterdam secured franchises for municipal plants. *Amsterdam* reduced the rates from \$47 to \$36 (with an installation charge of \$10), improved the service, and largely increased the number of telephone users.<sup>2</sup> The company had 1,706 in 1896 or 3.4 per thousand of population, while the public system at the end of 1900 had 4,462 subscribers or 8.7 per thousand three years after the plant went into operation. The development is still low, but is vastly greater than under private ownership in the same place, and greater than in the private system of London, and the public plant is making a profit. In *Rotterdam* the rates range from \$26.40 to \$38.40, with an installation of \$8. In 1896 under private ownership there were 1,000 telephones, or 3.5 per thousand people. At the close of 1900 with the municipal system there were 3,089 telephone stations, or ten per thousand of population.

Aside from specific comparisons there is a general inference which seems to me valid. In any given locality with reasonable service, the lower the rates the greater is likely to be the telephone development and since public ownership tends to lower rates than private ownership in the same locality, it would seem reasonable to believe that public ownership tends to enlarge the use of the telephone.

In *France* the telephone was in private hands till 1889 when the government took possession and reduced the rates—that in *Paris* coming down from \$120 (116) to \$80 (78) and recently a further reduction has been made to \$60. *Austria* began with private exchanges and afterward adopted public ownership. In *Switzerland* private companies operated first but the government bought them out and established full public ownership. Speaking of *Copenhagen* Mr. Bethell said in his original testimony (slightly modified in revision), "Not satisfied with these most excellent conditions obtained by private ownership, with one exception (Stockholm) the

<sup>1</sup> (See pp. 335, 336, "Telephone Systems of the Continent," by A. R. Bennett, a leading English expert and former general manager of the Mutual Telephone Co., of Manchester, England.)

<sup>2</sup> This is the sort of comparison that proves something, because it is a comparison of the two systems of ownership in the same place. In respect to rates, however, there is an offset as the private company had to pay a large percentage of its receipts to the city in taxes. When the city went into the telephone business Nov., 1896, it buried the cables, introduced a better equipment than the Bell Co. had used, and greatly extended the service. The city not only cut rates from \$47 to \$36, but kept open all night instead of closing at 10 o'clock. For employees it shortened the hours, increased wages about 25 per cent., and established half pay during long sickness.

best in any European large city, and fairly comparable with most conditions even in America, the Government in 1898 assumed control of the telephone business (in Denmark), licensing the (Copenhagen) company, however, for 20 years longer, reserving the power to fix rates every 5 years." So it seems that even where private service is at its best there is reason for change to public ownership strong enough to overcome the inertia natural to humanity and the force of established custom into the bargain. The rates in Copenhagen (fixed by the Government) are \$27 residence, and \$32.40 to \$48.60 business, with message rates \$13 a year up. There are 15,311 subscribers or 49 per thousand of the population. In *England*, also, Mr. Bethell admits that the movement is from private to public ownership. Everywhere the irresistible sweep toward public management, and no movement the other way, this is the vitally important part of the general manager's testimony who does not seem to realize, however, that this great movement based on economic facts and broad considerations of public policy, overshadows all the rest of his statement, crushes his little statistics of Manhattan telephones, etc., into utter insignificance, and turns his testimony into an argument for public ownership.

#### The Washington Telephone Case.

In Washington the telephone rates are \$96 for residence, unlimited service; \$48 for four-party unlimited, and \$36 for four-party measured. For a business phone, \$120 recently reduced from \$135.

For Washington telephone service Congress passed an act fixing maximum rates at \$50 a year with 1 telephone on a wire, \$40 with 2 telephones on a wire, \$30 with 3 telephones on a wire, and \$25 with 4 or more on the samewire. (30 Stat. L. 537, 538, Chap. 540. June 30, 1898). The company refused to comply with the law, the matter went into the courts and in *Manning vs. Chesapeake and Potomac Telephone Company* (28 Wash. Law. Rep., 97) the Supreme Court of the District of Columbia held the act unconstitutional. A careful reading, however, discloses sufficient evidence on the face of the opinion to invalidate the decision when the case comes before the court of last resort, the Supreme Court of Public Opinion. The ground of decision was that the rates fixed by Congress were unreasonably low, the evidence being the testimony and accounts of the Chesapeake and Potomac Telephone Co. doing business in Washington. In 1898 the company had a little over 2,000 telephones in use. It had been receiving \$135 for a business phone and had averaged \$100 income for every phone in use. It was estimated that the new law would reduce the average receipts to \$47 per phone. The company was paying about \$20 per phone in interest and dividends and \$8.50 per phone to the Bell Telephone Co. and the Western Electric for receivers and transmitters used by subscribers, drops on the switchboard in the central office and the use of patents the Bell Co. may hereafter

acquire. It claimed an average annual working expense of \$71.20 per phone. The capitalization was \$470 per phone (\$100 bonds and \$370 stock).

Now let us look at these items in the light of other facts stated in the opinion. The actual value of the plant was found to be \$441,436 as against \$950,000 capitalization, or less than \$220 real capital per phone instead of the \$470 of existing stock and bonds, making the fair capital charge not over \$10 per phone instead of \$20. But further a very large part of the \$220 was due to the fact that the plant was not used anywhere near up to its capacity and this in turn was probably due to the high rates maintained by the company. A large part of the capital outlay was for underground construction, putting in vitrified terra cotta ducts under asphalt pavements. The court said that "the cost of additional ducts to provide for future growth of business is very trifling and it is in evidence that some three or four thousand subscribers could be served by cables to be drawn in the vacant ducts now maintained." That is, the business could be doubled or trebled without more ducts and even further increase could be provided for at trifling expense. If the rates enacted by Congress had been put in operation, the subscription lists would doubtless have expanded greatly, and it is quite probable that the real capital per phone would have been speedily reduced to the neighborhood of \$100, or \$150 at most, in spite of the fact that Washington is a "city of magnificent distances." I know the judge doubted any substantial increase of subscribers through lower rates, but the facts prove that the doubt was not well based. The following table presents a few of the facts bearing on the relation between rates and the use of the telephone before the date of the Washington suit. (Later facts will be found under the preceding topic.)

	Relative Size.	Rates.	No. of Telephones.
Washington (1898) .....	1	{ \$36 to \$135 } { \$100 average }	1 phone to 120 persons.
Stockholm* .....	1+	\$20 average	1 " " 23 "
Christiania* .....	2 <sup>3</sup> / <sub>4</sub>	\$22 average	1 " " 30 "
Trondhjem* .....	1 <sup>3</sup> / <sub>4</sub>	\$13+ "	1 " " 38 "
Berne* .....	1 <sup>3</sup> / <sub>4</sub>	\$10 upward	1 " " 40 "
Zurich* .....	1 <sup>1</sup> / <sub>2</sub>	\$10 "	1 " " 50 "
Berlin* .....	7	\$36	1 " " 60 "
Copenhagen .....	14 <sup>3</sup> / <sub>4</sub>	\$41	1 " " 70 "
Amsterdam .....	2	\$50 to \$100	1 " " 150 "
Paris* .....	10	\$78	1 " " 170 "
Greater London .....	22	\$100	1 " " 700 "
Greater Boston .....	4	\$25 to \$150	1 " " 60 "
Greater New York .....	13	\$90 to \$210	1 " " 120 "
Chicago .....	6	\$6 to \$175	1 " " 130 "
Philadelphia .....	5	\$60 to \$160	1 " " 170 "

\* The cities starred had public systems, the others had private plants at the date to which the figures refer. Stockholm had a private exchange plus a government system. The American figures relate to 1897 and 1898, the year of the Washington discussion. The European figures are a little earlier and therefore probably less favorable to them as the use of the telephone grows each year. In the column of size, Washington has been taken as the unit and the other cities classed according to their relative size as compared with Washington, Zurich half the size of Washington, Copenhagen one and a third times as large as Washington, Philadelphia five times as large, &c.

The evidence is that low charges, whether in cities larger or smaller or the same size as Washington, induce far larger use of the telephone than exists in Washington, such larger use being found as an accompaniment of low rates in cities of vastly less general intelligence and prosperity than Washington, and in cities having private plants as well as those having public systems; whereas in foreign cities like Amsterdam, Paris and London having high charges (though only one as high as Washington) show a lower use of the telephone than Washington, and the same is true of American Bell cities, excepting Boston, which, being the hub not only of the universe but of the telephone business, and a city of great prosperity and unsurpassed intelligence, naturally breaks the record.

In Rochester, N. Y., a city of 162,000 people, or about three-fifths the size of Washington, there is an independent telephone company with rates of \$36 and \$48, on which 8 per cent. dividends are made on a large body of stock all of which is water, as the bonds more than cover the value of the plant. With these rates, which are still too high, there is one subscriber in Rochester to each 40 persons, showing that with anything approaching reasonable rates, our people become large users of the telephone.

Upon the facts here stated and the whole body of existing telephone data, there is the strongest reason to believe that lowering the rates to the Congressional level of \$25 to \$50 would very largely increase the number of subscribers, probably doubling the use of the telephone, and perhaps trebling it within two or three years. The judge said that the court must take "care not to intrench upon the authority of the law making power, not to disregard the statute under consideration, unless it be *unmistakably* repugnant to the fundamental law." Yet the court refused to consider the case on the basis of the probable increase of business and decided it upon facts relating to the preceding years under high rates. Suppose the law in Hungary establishing the zone system reducing rates 40 to 80 per cent. had applied to a private system of railways instead of a public system, and the railroads had brought the matter into court, claiming that the law confiscated their property, saying that since they had only been making ordinary interest on their capital at the old rates, they would surely make a loss on the new tariff averaging less than half the old one. The companies would have made out their case on the basis of existing rates and business, and the law would have been declared unconstitutional on the principle of this Washington decision, and yet the law was so far from being *unmistakably* repugnant to the fundamental law against confiscation, that the actual result of putting the law in operation was an increase of net earnings instead of a loss as had been expected. It is not possible to foresee the effect of such a lowering of rates either in the railroad or the telephone field, wherefore the court cannot know that such a law as that relating to the Washington tele-



phone is "*unmistakably*" repugnant to the constitution. The true plan in such a case is to enforce the law for a reasonable time until it becomes clear that the effect of the law is to deprive the company of a reasonable return, clear as a matter of fact and not as a matter of supposition or inference from more or less irrelevant data. Then the law may rightly be declared unconstitutional, and the company should have the right to collect from the government whatever damages have been inflicted upon it by the said enforcement,—but if upon fair and honest trial the law justifies itself, it should be declared in force.

In the Wellman case (143 U. S., 339) the Supreme Court of the United States clearly recognized the principle that the increase of business from lowered rates must be taken into account, and made this principle one ground for refusing to hold void a railway law of Michigan fixing maximum passenger rates at 2 cents a mile. In Indiana a statute fixing the rent of a telephone at not over \$3 a month or \$36 a year, has been held valid, although the company in suit was charging \$11.16 a month or \$134 a year, and claimed it was only making reasonable profits and could not manage on \$36 a year.

To return to the Washington items. It is probable that the enforcement of the Congressional rates would double or treble the business, and bring the real capital per phone down to \$100 or near it, thereby reducing capital charges from \$20 to \$5 or \$6 per phone.

The \$3.50 monopoly tribute to the Bell and Western Electric is almost wholly an unjustifiable charge under an agreement made years ago under pressure of the fact that the Washington Company, like those in most other American cities, are really subsidiary Bell interests, or branches of one big monopoly.

The claim of \$71 per phone for working expenses is absurd in my judgment. Compare it with the working expenses of \$6.43 reported in this same city of Washington for the telephones of the widely scattered buildings connected with the Interior Department's exchange above mentioned, and the difference makes the \$71 claim incredible. Remember that this same private telephone interest which now claims it cannot reduce rates because its \$100 of average receipts is only just enough to cover cost of working and capital charges, made a similar claim when the Department of the Interior asked for reduction six years ago, and yet when the Government put in its own phones, the service cost only \$10.25 for maintenance, operating cost, depreciation and interest, in place of the \$75 per phone formerly paid. The claim of the company in 1894 that it could not reduce its charges of \$60 to \$125 for these phones has been conclusively proved erroneous, and there can be no doubt in the mind of anyone familiar with telephone data that its present claim is also erroneous. In Grand Rapids, Wis., as I have said, the Bell interest was charging \$36 to \$48 and claimed it could not reduce rates and yet the people are now actually



obtaining equally good service for \$3 a year residence and \$18 for a business place, and a small surplus is realized even at these rates. Bell estimates are clearly unreliable, considering the length of time the Bell companies have been in operation, they seem to know remarkably little about the business when it comes to reducing rates.

With the fine underground system established in Washington, repairs and maintenance should cost comparatively little, and the operating expenses are not very heavy—all lines go to the central station where one operator manages 100 lines, and the public stations in hotels, etc., are managed on the nickel-or-dime-in-the-slot machine plan instead of having paid attendants, as in Boston and many other cities. The \$71 I believe to be more than double the fair figure for working expenses. Companies have many ways of adjusting their accounts so as to show large expenses and small profits. It is a common thing to charge the cost of extensions and repairs to maintenance and operation. Sometimes quite ethereal expenses are put down in the material column. For example last year in examining the accounts of the Boston Gas companies, an item of "\$15,000 for gas mains" was found to cover such expenses as \$1,200 to Mr. L., \$1,500 to Mr. M., etc.,—L. and M. being gas lobbyists at the State House. This year it is stated on the authority of one of the directors of another gas company that \$1,000,000 is charged on the books of that company to an account that did not receive a dollar of the money, which was abstracted and used for illegitimate purposes. Corporation accounts are very unreliable affairs. And this Chesapeake & Potomac Company has had, without any unlawful abstraction of money, special opportunities of erroneous accounting, as to the capitalization and expenses in Washington,—these special facilities arise from the fact that Washington is only part of the territory occupied by the Company,—the stock for its whole territory being \$2,650,000, and for Washington alone \$750,000. A small percentage of error in apportioning expenditures as between Washington and the outside territory of the company might make a considerable difference in the Washington results.

I believe the Manning decision was a judicial blockade of a just law; there was no reliable evidence that the Congressional rates were too low, while, as the court admitted, there was evidence "that in many cities in this country and also in Europe telephone service is supplied by the government or by corporations at rates which appear to be less than those fixed by this act," and there is a vast amount of evidence not referred to in this case, which tends to show the unreliability of the company's claims and the fairness of the law. Nevertheless in view of the well-known power of giant corporations to tangle a court with *ex parte* statistics, and claim protection against possible loss, it seems to me it would be wise to provide in such acts that the law shall be enforced for a year or two under a guarantee that the government would make good

any deficit resulting from the legislative rates causing the income to fall below working expenses and fair capital charges, *providing* such deficit occurs in spite of reasonable efforts to make the new rates successful, and is ascertained upon accounts carefully watched day by day by a public officer with full powers of inspection both of the accounts and the manner of conducting the business. In some way the public must take the risk of such changes for the benefit of the public, or else the courts will stand between the corporations and the law. For while the judges *say* that the law must be unmistakably contrary to the constitution to be void, they frequently *act* on the principle that it will be void if the companies can make it appear doubtful whether the new rates will yield a profit. Through some such modification as I have just suggested, or by frequent small reductions, the regulative power may make itself felt, but the only clear, clean, certain and complete solution is public ownership.

After making this statement regarding the Manning case, I submitted to Pres. Holbrook, of the Massachusetts Telephone Co., the question of the credibility of the \$71 charge for working expenses under Washington conditions. His reply was that the said claim was not only absurd, but pathetic, and not only pathetic but humorous,—pathetic that a claim nearly three times the reasonable figure should be made, and humorous that men in authority could be made to believe such a claim. With underground wires in a plant like that of Washington, the fair charge for maintenance and operation would be about \$25, according to Pres. Holbrook. In Montreal, a city about the same size as Washington, with wires largely underground, a good profit is made on a \$50 telephone rate established by the Dominion Government. In Rochester, a city of 162,000 people, the independent telephone company has 3,600 subscribers, and the Bell has dropped to 400. The cost of the independent company's lines has been a good deal less than \$100 a line. The plant is bonded for \$400,000 and the stock is \$400,000, a capitalization nearly three times the real value of the plant, yet the company pays 8 per cent. dividends with rates of \$36 and \$48 per telephone year. Referring to the New England Telephone Co., Pres. Holbrook says "the cost of operating they claim is \$11.00 a phone; the cost of maintenance, \$24.00 a phone. Their general expenses, including taxes, are about \$11.50 a phone. Now these figures are excessive. There is an overcharge on maintenance of \$13.50 per phone, which is due to the necessity of their building old-fashioned and worn-out plants entirely over. They are obliged to pay \$4.00 a year royalty on each phone, \$2.00 extra on taxes per phone, owing to the fact that they are stocked and bonded at \$300.00 a phone; whereas \$100 would rebuild, and in an entirely modern way, their entire system. A capital charge of \$12.00 in excess is therefore put against each phone. In other words (taking all the facts into account), the New England Company is handicapped to the extent of about \$31.00 a phone." As the New

England Co. averages \$58 per phone, this opinion of Pres. Holbrook would indicate \$26.50 as the normal average charge for that company's exchanges, which more than confirms my own estimates.

The above testimony before the Industrial Commission and analysis of the decision of the District Supreme Court in the Manning case was made in Jan., 1901. In May the Court of Appeals reversed the Supreme Court on two grounds: First, that the Chesapeake & Potomac Telephone Co. had no franchise or license from Congress to do business in the District of Columbia, and that by express reservation Congress can determine its privileges at will without compensation or put any conditions upon its business. Congress could fix the telephone charge at \$10 a year, saying to the Company in effect, "You may do business on condition of making a \$10 rate or you may discontinue business." *Second*; that the evidence fails to show that the rates actually fixed by Congress are unreasonably low. The court doubted the Co.'s charge of 40 per cent. of the bonds and 40 per cent. of the general expenses against the District plant. Baltimore, a larger city than Washington, with 25 per cent. more telephones in operation, together with the exchanges at Cumberland, Hagerstown, Frederick, Westminster, Annapolis, Mt. Washington, Lutherville, and Martinsburg, and all the toll lines connecting these exchanges and adjacent villages without exchanges—all within the Chesapeake Co., and certainly amounting to more than 60 to 40 as compared with Washington.

Moreover, the matter is not settled by ascertaining the proportional amount of salaries and expenses belonging to the Washington plant. As between the Co. and the public a further question rises as to whether the salaries and expenses are reasonable. The fundamental query must be, not what it actually costs the Chesapeake Co. to operate the telephone service in Washington, but what it ought to cost under reasonable conditions; otherwise a corporation could easily defeat acts of regulation by establishing big salaries and swelling the expense account with waste or extravagance.

Besides an unreasonable sum for general expenses the Co.'s expert, Haskins, in estimating annual expenses, included "large annual rentals for receivers and transmitters paid to the American Bell Telephone Co. (which appears to own a majority of defendant's capital stock under the old contracts of 1883 and confirmations), 40 per cent. of annual interest on bonds, and some miscellaneous interest, and 40 per cent. of annual appropriations to the sinking fund. In addition he charges a great proportion of the cost of additional underground construction and the substitution of improved appliances, etc., together with all cost of subscribers' connections."

"The most of these inclusions as charges to current expenses of maintenance we regard as inadmissible. \* \* It is plain that interest and sinking fund items are not chargeable as expenses, and we understand this is virtually conceded. There is no proof that justifies the payment of the annual rentals to the parent Bell Co.

Patents existing when the 1883 contracts were made have necessarily expired, and the evidence shows that instruments of equal efficiency can be purchased in open market for a sum slightly in excess of one year's rental charge."

The court then discussed at some length the charging of construction cost to operating expense, including the building of a new and improved underground system while the old one was still in good order, and concluded that "this new subway, with its extra conduits should have been charged to construction" \* \* "Whatever is necessary through ordinary wear or accident to keep the plant in good, serviceable condition is properly chargeable to expenses." But what is done "in order to obtain increased efficiency, or increase of plant, would seem to be properly chargeable to construction"

"The defendant also claims the right to charge against annual expenses from 10 to 15 per cent. of value of plant on account of depreciation, although this item does not appear in the figures of the expert, Haskins. We cannot agree to this proposition. It is covered by the regular annual charge of maintenance, which includes all repairs and substitutions of defective and worn-out materials in order to maintain efficiency of operation."

"It is impracticable from the evidence to say just what reductions may be made for any one of the years given, on account of the cost of the new underground construction. Averaging it, with considerable uncertainty, and making the other deductions mentioned, the average annual expense per year, for the six years, would be less than \$50 per telephone subscriber, leaving a possible margin for dividends of from 2 to 3 per cent. upon the actual cost of the plant." \* \* \*

"Coming down to the evidence of expenditures for the first three quarters of the year 1898, Haskins shows total expenses for the whole year, estimating the coming quarter at the same proportion, to amount to \$151,371.57.

"Continuing his system of charging expenses, he estimates the cost for the year per telephone—taking 2,126 as the average number—at, say, \$71.25.

"Deducting interest, sinking fund and rentals as not properly chargeable to expenses, the cost per telephone would be about \$53, making expenses exceed income, at the \$50 rate, about \$6,500 for the year.

"Appellants contend that this difference would be more than set off by deducting from salary charges the traveling expenses of officers and the unnecessary cost of services in general. They would deduct from the former \$4,106.74, and for the latter \$19,248.31.

"This last deduction would embrace the proportion of general salaries charged to the Washington plant, which amounts to \$10,918.40, with a reduction of, say, \$9,000 from local expenses as excessive and unreasonable to that extent.

"That there should be some deduction on account of these expenses seems reasonable, but what that reduction should be does



not satisfactorily appear from the evidence. Appellee's statement of the expense per telephone of salaries and wages alone is at the rate of \$37.70 per year in the District of Columbia. This is much greater than the total expense per telephone in many other places given in the testimony. For example, Toronto, Canada, with 5,932 stations, estimates expenses at \$25.86 per station; Detroit, Mich., 4,636 stations at \$20.95 per station. Some smaller cities, none of which, save Grand Rapids, Mich., have more telephones than Washington, range from \$12.50 to \$24 per station."

The case was remanded for entry of a decree granting an injunction against the Co. to prevent it from refusing telephone service at the rates fixed by Congress so long as it continues to do business in the District of Columbia. The matter will doubtless be carried up by the Co. We await with deep interest the decision of the court of last resort this side of the ballot box.

#### Corporations in Politics.

Employes of large gas companies in some of our cities say that persons desiring employment by those companies have to be recommended to their places by the political boss of their precinct, and cannot keep their places if they lose their standing with the machine.<sup>1</sup>

A few years ago the Board of Trade, Chamber of Commerce, etc., of New York backed up a bill in the legislature to reduce the telephone charge in New York from \$240 to \$100. The bill was favorably received and had every prospect of passing, but it didn't for the reason, I am informed on high authority, that the telephone interests made the Republican boss of New York State a present of \$200,000 which so moved his sympathetic nature that he interfered and turned down the bill. He could not bear to see so liberal and thoughtful a concern injured by his unfeeling vassals at the State house.

#### Progressiveness.

Hon. John Wanamaker, when Postmaster-General, tried to give the people cheap telegraph and telephone service in connection with the post-office. Other Postmaster-Generals have made similar efforts. It would be a great advance to carry the telegraph and telephone to all the rural districts and to have low uniform rates—10 cents for telegrams and 5 cents for a local telephone message, perhaps—and it is not public ownership that has prevented this progressive step; it is private ownership—private ownership of the telegraph and telephone, and private ownership of a sufficient lobby and a sufficient number of Congressmen to checkmate the enlightened and earnest efforts of our Postmaster-Generals.

In studying municipal gas works, electric light and tram plants in England recently Prof. Bemis says he "was surprised to find that what many would expect to be the weakest point in public

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<sup>1</sup> Prof. Bemis' testimony to Indust. Comssn., Dec., 1900, p. 101.



managemt was one of the strongest over there, viz, their *enterprise*, their readiness to introduce the latest machinery and inventions, which was accounted for partly by the fact that they were paying higher wages and working the men less hours than many of the private companies especially in the tram ways."<sup>2</sup>

In this connection Mr. Corydon Ford of the Ruskin Commonwealth says: "The postal government is now pushing along rural delivery. Do you notice that the privately owned express companies are pushing free rural delivery of express packages? And are the privately owned telegraphs pushing free rural delivery of telegrams. The Western Union won't deliver much over a mile into the country under any circumstances, and then they charge from 30 to 50 cents for it in addition to the regular toll. Remember that the government service is run by individuals, the same as the private service, with this difference, that in the public service the individual is not trying to retard improvements for the purpose of putting money into his pocket. Read the instructions sent out from Washington, 'Rural Free Delivery,' and see how the individuals who constitute the postal government are trying to benefit the public. Compare it with the way the farmers are treated by the privately owned telegraph and express companies."

#### Power of Taxation.

In the present stage of the battle with monopoly and wealth congestion the power of taxation is the greatest power we possess, and co-operative industry and wealth diffusion are the greatest purposes,—let us make the greatest power serve the greatest purposes. (See pp. 520, 521, 549-551.)

The 116 railroads in Ohio have a tax value now of \$187,000,000. Mayor Johnson employed Prof. Bemis to calculate their market value and found it to be more than \$600,000,000, and he is pushing for a strong raise in the tax valuation. The Toledo Traction Co. with a tax value of about 1 million sold recently for about 11 millions, and Mayor Jones has also gone into the fight for fair valuation of corporation property.

This is excellent work and we hope that these and other great leaders will not only shut the doors against the tax dodgers, but go a little further and expand the principle of progressive taxation so that men of vast income will pay more nearly in proportion to their ability than is possible on the dead level tax-rate plan. (See pages cited in the above parenthesis.)

#### DIRECT LEGISLATION.

Among recent illustrations of the dire necessity for the extension of the rights of direct legislation, the law and order mob of Kansas City and the franchise grab of Philadelphia are the most striking.

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<sup>2</sup> Testimony Indust. Commn., Dec., 1900, Vol. on Transportation, p. 96.

In respect to the first take the following from the *Kansas City World* of April 3, 1901:

**Ropes in the Council Chamber.**

The attempt made last night by the franchise grabbers in Kansas City, Kan., to railroad their ordinances through the council was only defeated by the determined opposition of the people whose property rights the ralders proposed to confiscate. The *World* not only does not think that the citizens who coerced the council into postponing action are to be reprobated for making a show of force, but believes they are to be commended.

When a robber assails a man or enters his house the citizen is justified in protecting his property by any means in his power. The same rule applies in this case, where an impudent attempt was made to steal valuable rights.

The temper of the councilmen is such that it is practically certain they will do what the Metropolitan company desires and will meet quietly and pass the franchises. The people of Kansas City, Kan., must look very sharply after their interests if they would prevent surreptitious action. Once the ordinance is passed it would be useless, even reprehensible, to hang a councilman.

Eternal vigilance is the price of safety. Every council meeting should be largely attended and the councilmen prevented from delivering the goods they have contracted to turn over to the corporations.

**The New York Journal of April 4, remarked:**

Mob law is always to be deprecated, but when five hundred armed men with ropes, led by the President of the Mercantile Club, entered the Council Chamber at Kansas City, Kansas, and induced the council not to pass an ordinance extending the franchise of a street monopoly for thirty years after the people had just elected an administration pledged to defeat the job, they exerted what appears, in the circumstances, to have been a highly commendable form of moral suasion.

Think of "Government by the People" reduced to the necessity of exercising its functions thru mob rule—no other way for the people to put their will in control, or stop the usurpations of their "representatives." If Kansas City had possessed the referendum a popular veto could have been secured by petition instead of with ropes and a mob.\*

**The Philadelphia Franchise Grab of 1901.**

The Philadelphia case is even worse. Important rapid transit franchises covering 120 miles or more on Broad street and other avenues of Philadelphia, were railroaded thru legislature and councils by the Quay machine. Without a hint of compensation to the

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\*How powerful a weapon against corruption the people's veto may become is shown by the fact that even a law requiring 40 per cent. on petitions has been found effective. A recent act in Indiana granted towns and small cities the right to vote on street cars, electric light, water works, telegraph and telephone franchises on petition of 40 per cent. of the voters. In spite of the high percentage several towns were able to protect themselves against venal councils—the 40 per cent. was quickly obtained and the franchise steal or other calamity averted. For example, Pendleton got the 40 per cent. petition and voted down an electric light franchise steal, and Worthington checkmated a water works steal. The legislature that passed the law was Republican, but it was not passed as a party measure. It is to be hoped the percentage may be lowered so that government by the people may act under moderate temperatures as well as under the pressure of explosive facts.

city, rights worth many millions were voted away by corrupt legislators. To rouse the people to what was going on John Wanamaker offered \$2,500,000 for the franchises, but the Mayor of Philadelphia threw the offer from him and signed the franchise grants. The press of the city, led by the North American, denounced the steal and all concerned in it from Governor down to Mayor. The pulpit joined in a scathing rebuke, and press and platform all over the country strongly censured the grabbers, and upbraided the City of Brotherly Love because it did not rise en masse against the robbers, as Kansas City, Chicago, and other cities have done. Even in New York such steals are not openly and brazenly conducted as in Pennsylvania, and when discovered the conspirators are prosecuted and jailed as in the case of the Broadway Franchise Grab.

The Philadelphia grants will be tested in the courts and the people have held an enormous mass meeting in the Academy of Music to denounce the conspirators and put in nomination for city attorney an able man who has proved himself so honest as to be turned down by the machine. The hall was crowded with business and professional men, distinguished speakers vigorously assailed Quayism and Ashbridgism, the indignation of the assembly was at fever heat, and there is no doubt that thousands of influential Philadelphians are bestirring themselves to secure the election of more honest men for the future government of the city; but the battle against the machine is a hard one, for the rascals control not only the offices and councils but the election laws. Nothing but organization of the good to fight the organization of the bad will do the work. Honest men must unite to control nominations, sift the voting lists, watch the polls, exclude illegal ballots, and elect strong candidates pledged to honest government, improved election laws, municipal home rule, and the popular veto upon franchises and other important measures. What a change the initiative and referendum would make in Pennsylvania! The people could frame good laws and adopt them at the polls. They could call a franchise grant before the voters at the polls for approval or rejection. They could pass a direct nomination law and break the power of the machine at one stroke. Brothers of the Keystone state unite for one strong effort, organize against corruption, let no other issue divide the forces of good government, nominate men you can rely upon, study the voting lists, watch the polls with expert care and eliminate fraudulent votes and creative counting, then get direct nomination and direct legislation amendments in the constitution and the machine will die. A century ago the heart of freedom was in Philadelphia. Have the dwellers round the Hall of Independence lost the manhood of their fathers? Has the love of liberty been driven out by the thirst for gold? The nation is watching you to see if you still have spirit to follow the noble leaders who are battling among you for justice and pure government.

## The Rhode Island Plan

In Rhode Island the following form of petition for a D. L. Amendment has been used with good results.

Please paste this petition upon a sheet of letter paper, secure as many signatures as possible, and return before November to the person from whom you received it, or to the Secretary of the Advisory Council, Mrs. J. S. French, 365 North Main street, Pawtucket, R. I.

## PETITION.

*To the Honorable General Assembly:*

The undersigned adult citizens of.....Rhode Island, respectfully petition your Honorable Body for the passage by this and the next General Assembly of an Initiative and Referendum Amendment, which shall provide substantially, that qualified voters of the State, equal in number to six per cent. of the total vote cast for Governor at the general election next preceding, may, by petition filed with the Secretary of State, propose future amendments to the Constitution to be adopted by majority vote of the electors present and voting thereon,—to the end that Rhode Island may become a self-governing State.

NAME.

POST OFFICE ADDRESS.

Massachusetts.

In Massachusetts a strong effort was made to secure the passage of a D. L. Amendment (1901). The labor unions were specially active. Mr. Frank K. Foster, representing the State Branch of the Amer. Federation of Labor, stated that 100,000 workingmen in Massachusetts were behind the demand for direct legislation. The attitude of united labor on this fundamental matter may be gathered from the following statement by Henry Sterling in his Labor Union paper "The Leader," Feb., 1901:

The American Federation of Labor, at its recent convention in Louisville, by strong resolutions heartily approved the movement of the *constitutional initiative*, and instructed its executive officers to propose such an amendment to the federal constitution. In Massachusetts the movement is supported by the state branch of the American Federation of Labor, representing over 120 unions; Boston Central Labor Union, representing 80 locals, and the Building Trades Council of Boston, comprising 50 affiliated bodies. Besides these, nearly 100 local unions in all parts of the state have petitioned for its passage.

Many labor measures have been enacted into law at the instance of trades unions; but none in this state ever received such unanimous approval or such strong support from so many organizations. Single petitioners to the number of 2000 have added their weight to the request for the Legislature to act favorably on the matter.

The legislature deemed itself better able to tell what would be good for the people and for themselves, than the voters of the state, and so they turned down the labor unions and the business men's petitions.

Many legislators owe their election to the big corporations and they cannot abandon their benefactors to the impartial justice of



popular government—the comparative impecuniosity of honest administration in the interests of the whole people must be avoided at all hazards. Other legislators regard themselves as a sort of superior being specially ordained to hold the people in guardianship; and still others do not understand direct legislation and are too busy or too lazy or too something to try to comprehend it.

While speaking for direct legislation before a legislative committee the suggestion was made that such a measure seemed a slur upon the legislature. I replied :

“The demand that the people should pass upon measures directly whenever they see fit is not intended as a slur upon the legislature. We should ask for direct legislation even if the legislature were composed of angels, and we should get what we ask in that case at once for such a legislature would recognize the right of the people to govern themselves for the educative and developing effect of self-government, and for protection against the self-interest of possible future legislatures not wholly angelic, and also against the possible errors and misjudgments, even in the best intentioned legislative bodies.

“Our coming before you with this measure asking you to give up a portion of your aristocratic power of making laws and putting them in force whether the people like them or not, is not an insult but a compliment. If we did not believe you capable of acting for popular sovereignty and the public good against your private interest, we would not spend our time at these hearings.”

As to the relation between the people and the legislators under direct legislation, Numa Droz, the foremost statesman of Switzerland, has this to say in the *Contemporary Review*:

Under the influence of the Referendum, optional or compulsory, a profound change has come over the spirit both of Parliament and the people. The idea of employer and employed, of the sender and the sent, which lies at the root of the representative system, becomes an absolute reality. The people still choose their representatives to make the laws, but they reserve the right of sanction. When they reject a law, in virtue of this sovereign right, there is no entering on a state of conflict, for a conflict can only take place where the exercise of a right is met by a competing claim; and there is here no claim to compete.

The craftsman carries out the work to his own satisfaction; the employer who gave the order is of a different opinion, and sends it back to be altered. It is perfectly simple. Each has done his duty within the limits assigned him. There is no ground of quarrel. *The legislator is not discredited; he is only in the position of a deputy whose Bill is not passed. There is no question of resigning.* Moreover, after rejecting a law it is quite common to re-elect the same representative.

The president of an electric light company who was a member of the committee asked if property rights would be safe if the people could make the laws. I replied by asking if any gentleman would rise in his place and say he believed that honest property would not be safe in the hands of the people of Massachusetts, and then affirmed my belief that property rights are not safe now—the people's property rights are not safe in the hands of legislatures



and councils owned and controlled by street railway combines and gas and electric corporations, but all just rights of property would be safe in the people's hands. If the privilege of fleecing the people thru franchise grants and monopoly taxes were what the gentleman meant by "property rights" it is probable they would not be safe with the referendum. Such privileges are not property rights but property wrongs. Vested thefts and vested wrongs would not be safe under direct legislation, but vested rights would be perfectly secure. With the referendum the people could protect their own rights without violation of any real right of any individual or company.

"Don't you believe in representative government?" some opponent of the referendum asks. "Certainly we believe in representative government in its proper place, under the sovereignty of the people, i. e., subject to the whip and the rein of the popular initiative and referendum giving the people the power to veto or to propose and adopt any measure in respect to which they see fit to exercise their power. But we do not believe in misrepresentative government—government by elected "representatives," not as agents of the people but as masters usurping the sovereignty of the people and putting their will above and beyond the people's will.

"But we have no right to delegate to the people the power reposed in us," says a careful legislator. "We are chosen to make the laws and it is our duty to do it. We have no right to shift the burden upon the people." Such a plea may operate in the case of a voluntary submission by a city council whose powers are derived from the legislature where the right of municipal direct legislation has not been established by constitution or legislature, but it cannot apply as between the legislature and the people in respect to a constitutional amendment providing for the initiative and referendum. An agent authorized to do certain business may surely submit to his principal the question of changing the method of doing business in such a way as to give the principal a more vital control over it, especially when large parts of the principal manifest decided longings to have the question submitted. The provisions for submitting constitutional amendments to the principal expressly secure his right to be interviewed in such cases, and no more important query can be put than the question whether or no he would like the right of demanding an interview extended to franchise grants and other weighty matters in respect to which he may see fit from time to time to exercise his judgment.

Some legislators appear to take the ground that they have a good thing and mean to hold on to it. "We've got this government in our grip and we'll not take the people into the gang," is the plain English of the situation in some of our states and cities as it was under the old time kings and nobles. In such cases it may be necessary to get the people who believe in direct legislation to pledge themselves to vote for no man who will not support it.

In Massachusetts an effort was begun in March, 1901, to pledge the voters and organize public sentiment on the lines indicated in the following circular. This is the face of the circular:

## Massachusetts Referendum Union.

### CONSTITUTION.

THE object of the Referendum Union is to create and organize a public sentiment for the adoption of DIRECT LEGISLATION, or the INITIATIVE and REFERENDUM, and in particular to secure for the measure the support of the membership of all political parties.

The policy, methods, control and management of the REFERENDUM UNION shall be established by its members through the initiative and referendum, direct nominations, popular recall and proportional representation.

Membership in the Referendum Union shall consist of men and women of voting age. There are no fees or assessments. The sole requirement shall be the signing of the following:

### REFERENDUM UNION COMPACT.

With the object of securing Direct Legislation, or the Initiative and Referendum for the determination of public questions, I, the undersigned, hereby enroll myself as a member of the Massachusetts

### REFERENDUM UNION.

I agree to support, in caucus and convention, candidates pledged to Direct Legislation, and to do my utmost to see that such candidates are brought forward for nomination.

The Referendum Union is not a party movement and my loyalty to my party is not impaired by reason of my membership therein.

NAME .....

P. O. ADDRESS.....

PRECINCT..., WARD..., CITY OR TOWN.....

Cut on line of border, sign and mail to E. P. Gerould, Asst. Sec., 131 Tremont street, Boston, or hand to some member to be forwarded.

State Central Committee.

Officers: Pres., Prof. Frank Parsons; Sec., Dr. George W. Galvin, Asst. Sec., E. P. Gerould.

Here are the contents of the back of the circular:

## DIRECT LEGISLATION AND ITS NEED.

The Initiative is the right of the people to propose a law for final decision at the polls.

The Referendum is the right of the people to demand that a law or ordinance passed by legislature or council shall be submitted to the voters for final adoption or rejection at the polls.

The Initiative and Referendum together make up what is known as Direct Legislation.

The Initiative means that a certain proportion of the voters, —say 5 or 10 per cent.,—has the right by petition to propose the submission to the people of amendments to the constitution or statutes of the state or ordinances of a municipality.

The Referendum means that a certain proportion of the voters, —say 5 per cent.,—has the right to demand the reference of any measure passed by the law-making body to a direct vote of the people, for approval or disapproval.

The present legislative system and its advantages,—its compactness, legal wisdom, experience, power of work, etc., are retained, and its evils,—its haste, complexity, corruption, error, under legislation, over legislation and legislation against the wish or will of the people are eliminated.

The city or state will have its body of legal experts, trained advisers, and experienced legislators as at present. They will continue to do most of the law-making as they do now, but their power to do wrong or stop progress, their power to do as they please in spite of the people, will be gone. The city and state will have the service of its legislators without being subject to their mastery. If the delegates act as the people wish, their action will not be

disturbed. If they act against the people's wish, the people will have a prompt and effective veto by which they can stop a departure from their will before any damage is done. If the delegates do not act, the people can put machinery in motion and bring the matter to decision. When the delegates truly represent the people their action will stand; when they fail to represent the people their decision will be subject to prompt revision.

### Direct Legislation

1. Is essential to self-government.
2. Destroys the private monopoly of law-makers.
3. Is a common-sense application of the established principles of agency.
4. Will perfect the representative system.
5. Is immediately and easily practicable.
6. Makes for political purity.
7. Kills the lobby.
8. Makes it useless to bribe legislators because they cannot deliver the goods.
9. Attracts better men to political life.
10. Simplifies elections.
11. Simplifies the law.
12. Lessens the power of partisanship.
13. Elevates the press and the people.
14. Stops class legislation.
15. Opens the door of progress.
16. Is wisely conservative.
17. Works an automatic disfranchisement of the unfit.
18. Tends to stability.
19. Is a safety valve for discontent, and
20. Is in line with the general trend of modern political history throughout the world.

## THE MASSACHUSETTS REFERENDUM UNION. ‡

## BY-LAWS.

Until otherwise ordered there shall be a state central committee of not exceeding 100; city committees of not exceeding 50 and town and ward committees of not exceeding 25 each.

Each committee shall organize with a president, secretary and treasurer.

Town and ward committees shall each appoint a leader for the town or ward; a captain for each group of 50 to 100 voters, and a deputy for each group of 10 to 20 voters.

The deputies will report to the captain, the captain to the leader, the leader to the town or ward committee, the ward committee to the city commit-

tee, and the town and city committees to the state central committee.

It will be the duty of each deputy to furnish the other voters in his group with direct Legislation literature; to secure signatures to the Union Compact, and to aid in obtaining the vote of the Union on any question submitted. It will be the duty of the committees, leaders and captains to direct and assist the deputies in every practical way.

The State Central Committee shall appoint city, town and ward committees to act temporarily until the members of the Union in such districts perfect their own organizations.

## Second National Social and Political Conference

The National Social and Political Conference, Detroit, June, 1901, unanimously adopted a platform in which direct legislation was the first plank. Mr. Geo. H. Shibley, the well-known writer on finance and other politico-economic subjects, presented his plan of securing popular control over legislation thru a change in the rules of procedure in legislative bodies. (See above p. 521, and below in this section.) In connection with the same Conference several special meetings were held by those particularly interested in Direct Legislation. At one of them the National D. L. League was reorganized and a fund raised to continue the Direct Legislation Record under Mr. Pomeroy's management. At another meeting a National Referendum League was formed for systematic work among voters to educate, organize and pledge them to nominate and elect candidates who believe in the initiative and referendum and are pledged to do all in their power to secure them. This movement was chiefly due to the efforts of Dr. Webster and Mr. J. R. Dennison, who had done excellent work in Grand Rapids on these lines, and who obtained 150 referendum pledges at the Conference before the special meeting was called.\*

The *definitions* in the above circular of the Mass. Referendum League are based on the idea that the essence of the demand for direct legislation is not a request that the people *shall* make the

\*Mr. Eltweed Pomeroy was re-elected president of the Natl. D. L. League. Prof. Frank Parsons was elected president of the Natl. Referendum League, Dr. Webster, secretary, and Mr. Dennison, treasurer. Mr. Shibley's Non-Partisan Voters' Union is not yet organized, but he is "acting secretary" till a permanent organization is effected. These movements are all in perfect harmony. They seek the same end but by different lines of work,—dividing the field of labor and co-ordinating their efforts for a common purpose.

laws, but that they shall have the *right* to make laws if they see fit. When we go before the legislature and demand the Initiative we do not demand that the people shall propose laws, but that a measure shall be enacted giving them the right to propose laws,—it is not the proposal of a law but the right to propose a law that we ask.

The following definitions from The Direct Legislation Record are from the other standpoint, taking the sense in which the words are used when we *speak* of the thing done instead of the right demanded.

DIRECT LEGISLATION—Lawmaking by the voters.

THE INITIATIVE—The proposal of a law by a percentage of the voters, which must then go to the referendum.

THE REFERENDUM—The vote at the polls on a law proposed through the Initiative, or on any law passed by a lawmaking body whose reference is petitioned for by a percentage of the voters.

These definitions have the advantage of brevity, and tho they omit an essential element of the meaning of "direct legislation," "referendum," and "initiative," as commonly used in the literature of reform, yet there is little chance of misunderstanding because the mind applies the missing link,—we all know that a state establishing the right of the people to propose laws secures "the Initiative," even tho no law be actually proposed by the voters—the Initiative exists whether it be used or not. For the sake of clear thinking it is well to remember that this use of Initiative and Referendum to denote the measures or enactments securing the right to propose laws and demand their submission, is really a figurative use, but it is too firmly fixed in common usage to brook objection now even if ground for objection could be found.

#### Oregon.

In Oregon the D. L. Amendment has passed the legislature the second time and goes to the people in 1902. The following letter from one of the leading workers for the bill explains the situation:

OREGON CITY, Or., May 24, 1901.

PROFESSOR FRANK PARSONS:

MY DEAR FRIEND AND CO-WORKER:—It affords me great pleasure to say that our amendment passed the legislature with only one dissenting vote, and that in the senate. It will go to the people at our next general election, which occurs in June next year. We have no doubt of success at the polls, not only because there is now practically no partisan feeling against it, but also because we have already begun to work for it, and shall leave no stone nor pebble unturned, that we can reach, between now and election day.

Fraternally yours,

W. S. UREN.

#### Utah.

In Utah when the D. L. Amendment came before the people, Nov. 6, 1900, it was opposed by the Republican party, the Mormon Church and the newspapers, but in spite of this and the indifference of the Democratic party (party organizations are not fond of D. L.,



which is anti-partisan in its nature)—in spite of all this the people adopted the Amendment by a large majority.

#### Public Opinion Law of Illinois.

March 25, 1901, Mr. Crafts introduced the following important measure in the Illinois House of Representatives, and April 10th the committee on elections reported it recommending its passage.

"AN ACT PROVIDING FOR AN EXPRESSION OF OPINION BY ELECTORS ON QUESTIONS OF PUBLIC POLICY AT ANY GENERAL OR SPECIAL ELECTION."

Section 1. Be it enacted by the People of the State of Illinois represented in the General Assembly: That on a written petition signed by five per cent. of the registered voters of any incorporated town, village, city, township, county or school district, or one per cent. of the registered voters of the state, it shall be the duty of the proper election officers in each case to submit any question of public policy so petitioned for, to the electors of the incorporated town, village, city, township, county, school district or state, as the case may be, at any general or special election named in the petition:

Provided, Such petition is filed with the proper election officers, in each case, not less than sixty days before the date of the election at which the question or questions petitioned for are to be submitted. Not more than one proposition shall be submitted at the same election, and such proposition shall be submitted in the order of their filing.

Section 2. Every question submitted to electors shall be printed in plain prominent type upon a separate ballot, in form required by law, the same as a constitutional amendment or other public measure proposed to be voted upon by the people.

#### The Public says of this bill:

"There is probably little hope of its passage this year; yet if it should pass, it would be extraordinarily effective in distinguishing and promoting popular legislation. If the people could officially express their wishes regarding legislation by voting upon important questions free from entangling preferences for candidates, we should at least have opportunities for learning what now it is impossible to learn, the actual will of the people regarding the questions that concern them."

The bill did pass, was approved May 11, and goes into effect July 1, 1901.

This Illinois law does not give the vote of the people binding force, but it does give public opinion a chance for definite expression, which in many cases is sufficient to enable it to control the situation.

#### The Winnetka Plan.

Winnetka is a village of about 3,000 people 16 miles north of Chicago. It is the home of Henry D. Lloyd, the great fighter of trusts and world famous author of "Wealth against the Commonwealth." Some years ago a 50-year gas franchise was asked for, and it seemed likely that the village trustees would make the grant. The citizens were holding each month a public meeting for the discussion of public questions. The gas situation was discussed and a resolution was adopted asking the trustees to submit the franchise question to the people, and the sentiment was so strong that

the trustees felt obliged to refer the proposed franchise to the voters. The result was 4 votes for the grant and 180 against it, and the franchise was not given. The voters, by this experience, became conscious of their power. And when the time came for nominating the Village Trustees, a voter proposed that whoever was nominated should agree that if elected he would vote to submit to the people every proposed franchise or other important measure, and to abide by the popular vote. The nominees made the agreement and lived up to it. Since then the voters at each caucus for nominating village officers have offered and adopted a similar resolution, the nominees have pledged themselves to conform to the resolve, and the men elected have carried out their agreements. By this means the people of Winnetka have enjoyed a real and effective control of their local government, establishing substantial self-government without the aid of statute or constitutional amendment. Their liberties, however, are not quite safe till the popular veto is secured by constitutional provision, and there is definite provision for the initiative by the voters.

#### The Shibley Plan.

Mr. Geo. H. Shibley, founder of the New York Bureau of Economic Research, has elaborated a plan for extending the Winnetka idea to city, state and national governments. He would change the rules of procedure in legislative bodies so that monopoly bills and other measures of special importance could be sent to the people on request of 20 per cent. of either house, or on petition of a specified number or percentage of voters. A "Non-Partisan Voters' Union" is to be formed, the members being pledged to work and vote from the primaries up for candidates who are pledged to secure the desired changes in legislative procedure and work for the extension of the referendum principle. The plan is stated with great fulness in a forthcoming volume, the proof-sheets of which, through Mr. Shibley's kindness, I have had the pleasure of examining.

#### The Chicago Experiment.

Not many years ago the Chicago councils were corrupt to the limit; to-day it is said the majority of councilmen are honest, reliable, public spirited men. The change is largely due to the work of a non-partisan municipal league which looked up and published the record of every nominee, thus giving the public a chance to form an intelligent, unbiased judgment in respect to the candidates put in nomination by the various parties. In most cities the people vote in the dark,—they have no means of knowing the truth about nominees. The excellent results of non-partisan organization and investigation in Chicago, and in Boston in connection with the election of the school board, prove that public sentiment is strong for honest government and will win the day when it is able to see thru the smoke of party battles so as to know in what direction to fire.

## Government by the People.

The Union Reform Party stands on a platform made of one broad plank—Direct Legislation. Here are some of the crisp ideas it is sending over the country:

## NATIONAL PLATFORM.

Direct legislation under the system known as the initiative and referendum.

Under the "initiative" the people can compel the submission to themselves of any desired law, when, if it receives a majority of the votes cast, it is thereby enacted.

Under the "referendum" the people can compel the submission to themselves of any law which has been adopted by any legislative body, when, if such law fails to receive a majority of the votes cast, it will be thereby rejected.

## THE SOVEREIGNS' DEMAND.

The power to initiate laws to be voted upon by the people.

The power to have laws referred to them for approval or disapproval.

The power to recall public servants when they fail to represent the people.

The power to approve or disapprove of administrative policy by a direct vote.

## THE REMEDY.

"A government of, by and for the people."—*Abraham Lincoln*.

"To assert that a representative can act for the people better than they can act for themselves is to assert that he is as much interested in the people as they are in themselves, and that his wisdom is greater than the combined wisdom of the majority of the people. Neither proposition is sound." *W. J. Bryan*. Then why reserve the representative power to decide when "direct legislation is practicable."

"No reform in existing evils can be inaugurated or maintained without it." (direct legislation)—*John G. Woolley, Candidate for President Prohibition Party*. Then why inaugurate a reform through a party before securing direct legislation?

Let no man or party say what laws shall be enacted.

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The National Democratic Platform, adopted at Kansas City in 1900, says, "We favor direct legislation wherever practicable." It is also endorsed by the Populists and by many thoughtful Republicans. The National endorsement is the fitting culmination of the strong and rapidly growing movement for direct legislation in our states and cities—38 state platforms, chiefly Democratic and Populist, and over 3,000 newspapers and magazines of various complexion had already declared in favor of direct legislation. Its advocacy by two great parties and by leading men of the other parties is a fact of deepest moment because of the nature and effects of the measure itself, and because of the resulting indications as to the character of the political leaders who controlled the conventions adopting direct legislation planks.

Sovereignty means control. Where the will of a legislative body may prevail over the will of the people, it is the legislative body that is sovereign and not the people.



The Ohio and Illinois franchise laws, and the Broadway franchise, Philadelphia lease and Cincinnati grant are but samples of a great mass of legislation for private purposes against the people's interests. In such enactments, there is no element of government by the people—they are illustrations of government by councilmen and legislators acting as the agents of the corporations that have

#### THE PEOPLE AS MASTERS.

—through Direct Legislation by which the **OPTION** of ordering a referendum is transferred from the legislators to the voters. It puts the  *veto power* in the hands of the people.



THE PEOPLE AND THE POLITICIANS. II.

VOTER TO POLITICIAN:—Let me see those bills in your pocket also.

POLITICIAN—Hold on there! You don't know enough to vote on those.

bought them, or retained them,—government by politicians and monopolists not government by the people. It was not the people's wish to give away the Philadelphia gas works, or the Broadway franchise, or grant 50-year terms. Councils and Legislatures made strenuous efforts to hide the considerations paid them by the companies, and to conceal the real nature of the transactions, conscious



that they were acting against their public duty and the people's interest. Yet the people had no means of stopping these iniquitous grants, and once enacted they became irrevocable contracts, and if the stock and bonds have been sold to innocent parties they can be enforced in the courts, even tho the company's charter be revoked by the legislature (111 N. Y., 1). With the referendum such outrages would be impossible.

In two states and in a considerable number of cities in other states, the system of law-making by *final* vote of delegates has been replaced by a system in which the action of delegates is subject to veto and instruction by the people. State laws and city ordinances may be submitted to the people now in nearly or quite all of our states at the option of the legislators. All that is necessary is to *transfer the OPTION* of ordering a submission from the legislators to the people, and make the people's decision final. Or ENLARGE the option so that *either* the legislators *or* the people may order any question to the polls for final decision by the voters. Either plan puts the *veto power* and the *adopting power* in the hands of the people. So long as the option rests with the legislators they are willing to submit questions in respect to which they are acting honestly, but refuse to submit questions in respect to which they are acting dishonestly,—the very questions most in need of submission. Leaving the option of submission on most questions entirely with the legislators, as at present, serves to protect and perpetuate fraud and corruption by keeping from the people the very measures on which it is most important they should pass. Let the people themselves determine what measures shall be voted upon at the polls before going into effect, and the evil power of the lobby, corrupt politicians and self-seeking corporations will receive a death blow.

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The Kansas D. L. League says:

If you want your Business done.

GO to the polls;

If not

SEND someone to the Legislature.

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But just see how much business the legislatures do.

#### Multiplicity of Laws.

Mr. Samuel J. Barrows, Commissioner for the U. S. on the Internatl. Prison Commission, in his report on crime compiled from the Federal and State laws passed in 1897 and 1898, declares that in pursuance of his duties he had to read 30,000 pages of legislation in the 45 states, all of it less than 2 years old.

More than 300,000 judicial decisions are made annually in the United States, and 20,000 are handed down by the Courts of last resort. In 1900 there were published in the United States 95 volumes of statutes, 420 volumes of Federal and State reports, 77 volumes of digests and 150 legal treatises.

The Pennsylvania Legislature passed nearly 600 bills in 1901. The Massachusetts Legislature passed almost as many. In every State holding a legislative session this year the lawmakers have been as ingenious as ever in discovering defects in former legislation, in passing laws not needed and in meeting the necessity for new legislation growing out of new conditions.

—*Public Ledger, Philadelphia, July 10, 1901.*

In 1900 there were regular legislative sessions in 13 states, and extra sessions in 4 others. These legislatures passed 5,866 laws, an average of 345 per legislature, or about 443 per regular session, omitting the extras which did not get up much legislative steam. Of all these laws, only 19, or 1.2 per cent., were labor legislation, tho next to education the conditions of labor constitute the most important subject that can occupy the attention of the people's representatives, underlying, as it does, even the administration of justice itself.

#### Constitutional Amendments.

The New York State Library's summaries of legislation, from which the above figures are derived, state that in 1896 twenty amendments were submitted by the legislature of La. and all of them were rejected by the people. In 1897-8 eleven states voted on constitutional amendments, 18 amendments being adopted and 10 rejected. In 1899 four states voted on 10 amendments, adopting 7 and rejecting 3. And in 1900 twenty-four states voted on 50 amendments, 38 being adopted and 12 rejected.

#### The Stay-at-Home Vote.

It is estimated that 6,500,000 men of voting age in the United States did not go to the polls at the presidential election of 1900. Some were aliens; some were in jail or away from home; many were disfranchised in certain southern states by civic requirements they could not meet; but the mass of the 6½ millions were kept from the polls by indifference. And this indifference I believe results from two causes mainly,—1. lack of due civic education, and 2. a sense of the ineffectiveness of voting under present conditions. Given civic education and an opportunity to vote yes or no on specific measures of importance, and to vote for candidates the voter has helped to nominate, and few men probably would prove indifferent.

The following facts will be of deep interest to students of free government. Note especially the low percentage of non-voters in the contested states and the high percentage in the South.

State.	Males of voting age.	did not vote	Percentage of non-voters.
Me. ....	211,303	105,583	49
N. H. ....	128,767	36,419	28
Vt. ....	104,747	48,606	46
Mass. ....	831,261	416,990	50

State.	Males of voting age.	Did not vote.	Percentage of non-voters.
R. I. ....	124,021	67,473	54
Conn. ....	271,151	91,011	33
N. Y. ....	2,141,275	593,370	27
N. J. ....	537,589	137,208	25
Pa. ....	1,754,242	581,032	33
Del. ....	52,314	10,407	19
Md. ....	308,641	44,277	14
Va. ....	424,235	160,140	37
West Va. ....	226,750	8,377	3
N. Car. ....	400,904	108,443	27
S. Car. ....	273,302	222,490	81
Ga. ....	477,746	355,010	74
Ala. ....	393,034	235,829	60
Miss. ....	325,296	266,193	81
Fla. ....	129,887	90,449	69
La. ....	309,445	241,541	78
Tex. ....	728,881	319,114	43
Ark. ....	299,126	171,704	57
Mo. ....	811,575	127,960	15
Minn. ....	505,768	205,125	40
Wis. ....	566,071	123,177	21
Mich. ....	713,148	149,148	21
Ohio ....	1,148,604	112,827	10
Ind. ....	680,755	16,915	2
Ill. ....	1,351,555	223,010	16
Ky. ....	520,664	52,501	10
Tenn. ....	460,432	186,485	40
Kans. ....	394,727	42,334	10
Neb. ....	304,213	63,132	20
S. Dak. ....	118,053	22,268	19
N. Dak. ....	97,928	40,159	41
Mont. ....	120,363	56,738	47
Wy. ....	41,106	.....	..
Idaho ....	680,755	16,915	2
Colo. ....	216,045	.....	..
Utah ....	72,446	.....	..
Nev. ....	19,401	9,205	47
Cal. ....	568,615	266,279	46
Or. ....	146,384	62,786	43
Wash. ....	217,438	110,043	50

#### The Concentrated Interest in Bad Government.

There was introduced into Congress at the last session a bill, called the Subsidy Bill, to give 9 million dollars a year to shipping. Most of the money would go to four big companies. The bill meant that a sum, amounting to about 50 cents for each voter, would be taken out of the pockets of the people and given to a few powerful corporations. The average voter is not much interested in 50

cents a year, but the owners of the four companies are deeply interested in 9 millions a year. Moreover the companies are already powerful in politics and have plenty of funds to pay for skilful lobbyists and other expenses of legislation in their interest, while the average voter has no special means of defending his interests, but must rely upon the honesty of the legislators to resist the pressure of the corporations. Under legislation by final vote of delegates without the safeguard of a right to demand the referendum, this thin diffusion of the interest in good government, and this concentration and intensification of the interest in bad government will continue to act injuriously upon legislation. But with the referendum the final decision rests with the people, who, by their votes upon the measure can make their diffused interest effective against the concentrated interest of the companies.

#### Twenty Reasons for the Referendum.

The following resume from my book on "Direct Legislation" is inserted here at the request of the publisher. Its brief and vigorous form may give it value to the busy man who has not time to read the fuller statement of Chapter III.

A full statement of the case for direct legislation requires a bulky volume, but under pressure in a good condensing chamber the substance of the principal arguments may be squeezed into very small space, and when one has studied the matter with care even the clauses italicized in the following analysis will call to mind the whole philosophy of the subject.

1. Direct legislation is *essential to self government* in complex communities—a necessary element in true democracy. It and it only *can destroy the private monopoly of legislative power and establish public ownership of the government*. The fundamental questions are: "Shall the people rule or be ruled? Shall they own the government, or be owned by it? Shall they control legislation, or merely select persons to control it? Shall the laws passed and put in force be what the people want, or what the politicians and monopolists want?" The referendum answers these questions in favor of the people, and it is the only thing that can answer them that way, except a miraculous conversion of politicians to wisdom and angelhood.

2. It is simply *a common-sense application of the established principles of agency*, affording the principal his proper

rights of veto, instruction, control, or discharge. Direct legislation means control of your servants instead of letting your servants control you.

3. It will *perfect the representative system* by eliminating serious misrepresentation. The *unguarded* system of law making by *final* vote of delegates results in frequent misrepresentation. Laws are passed that the people don't want and laws they do want are not passed. The *guarded* system of law making, by vote of delegates *subject* to such action as the people may see fit to take directly, is the only system entitled to be called representative because it is the only system that can prove and overcome misrepresentation.

4. It is *immediately and easily practicable* in city and state affairs and to some extent in national affairs. We have direct legislation now in town meeting government, and the making and amending of constitutions. In city and state affairs legislators *may* submit questions to the people if they see fit to do so. All that is necessary is to transfer the option of ordering a submission from the legislators to the people and to make the people's decision final. In national elections, instead of voting on a candidate and a complex platform as a unit, it would be easy to put the main questions on the ballots and to vote yes or no on each issue.

5. *It makes for political purity*, stopping corrupt legislation, and destroying the *concentration of temptation* which exists where a few legislators can take final action on franchises, etc.—\$5,000 may buy five councilmen to vote against the people's interests, but cannot buy 5,000 citizens to vote against their own interests. The power of bribery will be infinitely diluted. It will no longer pay to bribe legislators, for their action will not be final,—they cannot deliver the goods, and bribery of the people at a cost within the range of the values to be gained by it will be impossible. The lobby will die; rings and bosses will lose their power; black-mailing bills, and franchise-steals will go out of fashion; the age of private legislation will pass away. Direct legislation will take politics out of the slums and civilize them.



6. *Better men will be attracted to political life.* The purer politics become the more attractive they will become to good men, and the less attractive to bad men.

7. It will *simplify elections*, separating the judgment on men from the judgment on issues, and disentangling issues so that each may be judged on its own individual merits. Our conglomerate politics, with its mixture of issues in complex platforms, each mixture to be taken only with a specified candidate or set of candidates, makes voting very hard. One may wish to vote against "imperialism," and also against "free silver," or for the rough rider, but against the Philippine policy and the gold standard,—with direct legislation he could do this, but as it is the voter must swallow some gall in order to get some honey.

8. It will *simplify the law*, stopping the enormous output of useless, or worse than useless laws and ordinances, and limiting legislation to the few brief and simple enactments that are *really needed*. The body politic will no longer be disgraced by a fecundity natural only to organisms of a low order.

9. It will *lessen the power of partisanship*. Experience proves that voters at a referendum deal with measures on their merits, and not on party lines.

10. It will *elevate the press*,—voting will turn more on reason, and mud will be less in demand in the political market.

11. It will *educate the people*, intellectually and morally—more responsibility, more discussion of measures and public affairs, wherefore more understanding, sympathy and civic patriotism, more mind, morals and manhood.

12. It will *stop class legislation and give labor her rights*. Lawyers, traders, and corporation men form 60 to 90 per cent. of many congresses, legislatures, and councils. Farmers and artisans are not fairly represented in legislative bodies, but at the polls they will have their due preponderance, and can pass such laws as they please.

13. *It is the open door of progress.* Reforms will come as fast as the people desire them, without organizing or conquering a political party to carry out each advance, or waiting

till the millionaires and political bosses are ready for the curtain to go up.

14. *It is, however, wisely conservative as well as progressive.* There is no log-rolling or insidious lobby to carry a rash or dangerous law. The case for reform must be fully proved before the people will vote it. Experience with the referendum here and in Switzerland demonstrates this. The natural inertia of caution, stupidity or laziness leads most men to refuse a change unless they have strong reason for it. Yet, in spite of this conservatism which makes it difficult to pass bad measures at the polls, progressive measures with clear reasons to sustain them pass more easily at the polls than in the legislature, because the feeling and interest of the people is with true progress, and the resistive power of private interests opposed to progress is greatly weakened by the vast increase of the area in which it must operate.

15. There is an *automatic disfranchisement of the unfit*—those of least intelligence and public spirit voluntarily refraining as a rule from voting upon the measures submitted.

16. It follows from fundamental psychologic laws that with a people fit for free institutions the *judgment of the majority is apt to be superior to the judgment of the few.* (1) The interest of the majority coincides with the public interest. Direct legislation identifies power and interest, and makes the interest-bias work for good instead of evil. (2) Truth is a unit, error is multiple. There are many goals to which false logic may lead, only one to which true logic leads. When the people are in error they are usually divided, each urging his favorite illogicality. In large communities, as a rule, it is only on the basis of truth that the people can get together in controlling numbers, especially where interests are separately considered.

17. *Direct Legislation tends to stability*, not only (1) by the rejection of dangerous legislation, but (2) by offering those who deem themselves oppressed a peaceable and effective remedy by trial in the open court of public opinion—acting as

a *safety-valve for discontent*, and (3) by helping to eliminate war—there will be few wars when the common people vote them.

18. It *favors wealth diffusion* by depriving the wealthy of their enormous overweight in government, and giving the preponderance of legislative power to the common people, whose interests are opposed to industrial injustice, and the vast aggregation of private capital. The income-tax will have a chance, and the nationalization of railways and telegraphs. All oppressive monopolies will become public property, or have their horns sawed off.

19. *Experience here and in Switzerland has proved the measureless value of direct legislation and the utter futility of all objections raised against it.* Our town-meetings and votings on constitutional amendments have shown that men vote on measures with much discrimination, independence of party, wise conservatism, and solid progressiveness. Ambiguous measures, and those involving jobs or tricks are defeated, and the citizens least fit to vote, thru the natural effects of lower intelligence and lack of interest, usually refrain from voting on a referendum. Our people readily use the referendum, and the portions of our legislative system in which it has full play are universally acknowledged to be the purest and best.

Switzerland was formerly cursed with the unguarded representative system of law-making by final vote of delegates, class-rule, monopoly, corruption, etc. Direct legislation was adopted, and it has dethroned the politicians and monopolists, abolished bribery, class-law, and machine politics, rid the body politic of its vermin, destroyed the power of legislators to legislate for personal ends, given labor its true weight in the government, elevated the tone of the press, and the methods of political discussion, helped to educate the mind, heart, and conscience of the people, developed the manhood and improved the citizenship of the nation, given great impetus to wise reform, reduced taxation, and changed its incidence from poverty to wealth, established an income tax and other progressive taxes instead of indirect taxes, reduced

the charges of monopoly, and transferred the telegraph, telephone, railroads, express, etc., to the public ownership, filled the civil service with efficient officers, given good legislators a practical life-tenure thru repeated re-election, (the people being able now to reject a law and retain the lawmaker), facilitated the adoption of proportional representation, lessened partisan feeling, proved a drag on hasty legislation, fatal to extravagance, and favorable to economy thru the stopping of jobs and franchise-steals, the lessened cost of legislative sessions, and of printing the simplified and expurgated laws, and the saving of innumerable impotent petitions, powerless mass-meetings, lobby expenses, abortive investigations, etc. The great success of the referendum in Switzerland is fully attested by numerous witnesses of the highest character. It is deeply rooted now in the hearts of the whole people, even those who opposed its adoption having been converted to its favor by abundant experience of its benefits.

20. *The movement of thought and events in America is in the direction of direct legislation as is also the general trend of political history thruout the civilized world.* All over the world, the current sets from despotism to democracy. Thrones have been crumbling for a hundred years. Constitutions have been written and are growing more and more liberal, giving the people larger and larger powers. The whole movement is toward the full and effective sovereignty of the people in the expression of which direct legislation performs so indispensable a part.

Our century is filled from end to end with the growth of the people's power. The progress of civilization means the uplift of the common people. Once only the sovereign could make a law; all others were his subjects; now the people make some laws, influence to some extent the making of the rest, and have in *theory* the *right* to exercise the whole power of government; at last the theory will be realized and the people will be sovereign in fact as well as in name,—no laws will be made against their sovereign wish, and all laws their

sovereign majesty desire will be enacted,—a state of things impossible except thru direct legislation.

One of our states has passed a municipal direct legislation law; two others have adopted full direct legislation amendments to the constitution, and in another such an amendment has passed the legislature and will be submitted to the people. In five states now, cities may frame their own charters, and San Francisco has put direct legislation in her new home-made charter. A considerable number of states have provided for the referendum, and some for the initiative, on franchises and other important matters. The use of the referendum is fast expanding, and opinion favorable to its further extension is rapidly growing. Wm. J. Bryan, Thos. Jefferson and Abraham Lincoln have advocated it. The American Federation of Labor, the Knights of Labor, the Farmers' Alliance, Christian Endeavor Societies and Epworth Leagues, the Social Reform Union, and political parties representing many millions of voters, have pledged themselves to its support. The whole drift of public sentiment is in its favor. It is in the line of least resistance in reform to-day.

#### DIRECT NOMINATIONS.

In Minnesota a law\* has been passed which provides for the nomination of municipal officers by direct vote of the people instead of nominations by caucus and convention. Any person who desires to run for office, and is eligible to the office he seeks, may have his name put on the ballot by filing an affidavit of intention to run "for nomination to the office of.....to be made at the primary election," etc., \* \* "as a candidate of the .....party," and payment of a small fee. Each voter receives a "Primary Election Ballot" of the party with which he affiliates, and the person receiving the highest vote for a given office on a given party ticket, becomes the nominee of that party for that office, in the final election just as if he had been nominated by a convention. This law abolishes nomination by caucus or convention for the offices covered by the statute except in case of a vacancy by death, removal or resignation of a candidate chosen by ballot.

This enactment is a death blow to bossism and machine politics. The boss keeps his power by controlling nominations. He can

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\* Chap. 216, approved April 10, 1901, in force Sept. 1, 1901.



easily control the ordinary caucus and convention, but will find it very difficult to manage the Australian ballot in the hands of the whole body of voters in a community possessing a reasonable degree of public spirit and desire for honest government.

The Minnesota law is by no means all that could be desired. It does not include state officers, and it does not provide for independent nominations by petition of a moderate percentage of the voters, but it does accomplish a great deal and can be amended as the people realize the benefits of direct nomination and demand a more extended and thorough application of the principle.

In Wisconsin a radical bill was introduced in 1901 providing that "all candidates to be voted for by the people except those for village, town and school district officers, shall be nominated either at a primary election or by petition," etc.,—the act not to apply, however, to special elections to fill vacancies nor to judicial elections except for justices of the peace and police justices. The measure had strong support in the legislature and was earnestly favored by Governor Follette, but it failed to pass.

Nothing in politics is of more fundamental moment than the abolition of machine nominations. Direct legislation will break the main power of the machine and do much to destroy the motive, the chance of plunder, that draws bad men into politics, but direct nominations are necessary to get the best results not only in administration but even in legislation under the referendum and initiative. In some cases it may be necessary to secure direct nominations before direct legislation can be carried, while in other cases direct legislation may come first and direct nominations be adopted by referendum vote.

The following plan for abolishing ring rule is suggested for consideration:

1. Nominations to be made directly either by primary election or by petition of 5 or 10 per cent. of the voters of the district.
2. All nominations to be made at least 30 days before the final election.
3. Thorough investigation and publication of the record of every candidate, under the auspices of a non-partisan organization devoted to truth and honest government.

Candidates ought also to be called on to state clearly and simply their policy in respect to the offices they expect to fill and not as to any other office,—fitness for the work to be done is the test, not opinions on free silver or the tariff—what would the candidate for mayor do for the city, not what he thinks about the Philippines, is the vital question in the election of a mayor.

4. Use of detectives (by said association) and every other means of unearthing the thefts and frauds of the ring.
5. Employment (by said non-partisan association) of well trained young men and women who will thoroughly familiarize

themselves with the inside facts and then (with credentials signed by leading citizens) go from house to house, store to store, and office to office, for earnest personal talks with merchants, lawyers, doctors, mechanics and working men.\*

6. Apportionment of the voting list among a lot of vigorous men, each of whom will take a small section of the city and become familiar by sight and name with every man in his section who is entitled to vote. On election day these watch dogs of the ballot gather at the polls and challenge every fraudulent or improper vote. In this way some years ago I am told the citizens of Montreal revolutionized their ballot and completely excluded the illegal vote.

The gist of the matter is that the good must organize to fight the organization of the bad. The same energy and business sense must be used in the cause of good government as are used in the cause of plunder. When this is done I do not know of a community in America that may not secure an honest administration.

*Chicago* a few years ago appeared to be as hopeless as any case of corruption in our country, yet I am assured that her councils now are composed for the most part of thoroly honest and public spirited men, and the change has been brought about by the efforts of a non-partisan Municipal League which *carefully investigates and publishes the record of every candidate.*

In New Zealand nominations are made directly by the people thru petitions signed by the requisite number of voters in the district, and between the time of nomination and election, the candidates go about the district meeting groups of voters face to face and answering the questions that are freely and earnestly put to them. It is said further that if a man is not approved by united labor it is as a rule of no use for him to run for office. The result of this system of direct nominations, and the independence of the common people, is that political "rings" and "bosses" are unknown in New Zealand.

#### PROPORTIONAL REPRESENTATION.

The Proportional Representation Society of Ontario is circulating a leaflet by "R. T.," which is so clear and forcible that we give the larger part of it with only slight modifications.

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\*The Youth's Companion for May 16, 1901, p. 1, states how one bright, earnest young man applied this principle in a Western city, and without credentials or backing, ousted the established boss and his machine in one campaign by going from citizen to citizen with the simple story of the boss's offer of an office and a \$15,000 commission to aid a fraudulent scheme of the ring to get a paving contract at prices above the fair value.

## METHODS OF PROPORTIONAL VOTING.

An effective system of voting is the foundation of good municipal government. Our municipal institutions are based on the vote of the people, and if the method of taking that vote is defective, the resulting government must be defective also. You cannot get good results from poor machinery or from bad methods. To put it more specifically, the arrangements or constitution of electoral districts, and the system or method of marking and counting the ballots, have more to do with the quality of municipal government than any other factor; because upon these things depend the kind of men you elect.

Let us then examine critically the system of voting now used. Is it in harmony with the underlying principles of representative institutions? Or is its machinery so defective as to cause misrepresentation and non-representation of the people? Does it tend to promote or to prevent the election of the right men?

## ELECTING A MAYOR.

We will begin with the election of the presiding officer of the municipality. Two principles of representative government stand out prominently here:

1. There should be the utmost freedom of choice in nominating candidates.

2. The man who is elected should have a clear majority of the votes cast.

No one will dispute the correctness of these two principles. Yet they are continually set at naught in the election of mayors, etc., under the present system.

For the last two years—1899 and 1900—Toronto has had a "minority Mayor;" and it is a common occurrence, when three or more candidates are running, that the successful candidate gets a minority of the votes cast. This is simply the result of defective methods. It is quite practicable to use a system that will give a clear majority at one balloting, no matter how many candidates there are.

The other serious disadvantage of the present method is that it restricts the choice of candidates. When two fairly strong men are nominated, others dislike to enter the field, because they might injure the chances of one

or the other of the contestants by cutting into his vote, and because many electors will not vote for a man, however good, unless they think he is one of the strongest candidates.

## THE BETTER WAY.

Here is a method that will carry out the two principles mentioned, and will remedy the evils complained of. It is an adaptation of the Hare-Spence system of Proportional Representation.

Suppose that our old friends Smith, Brown, Jones and Robinson are running for a city mayoralty. Under the improved system, each voter marks his ballot for all the candidates in the order of his choice, with the figures 1, 2, 3, 4. For instance, take a voter who wants Smith to be elected and who thinks Robinson the most objectionable of the candidates, and who prefers Brown to Jones. That voter will mark his ballot thus:

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*****
* Brown.....2 *
* Jones.....3 *
* Robinson..... *
* Smith.....1 *
*****

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By thus marking his ballot, the voter practically says: Smith is my first choice, and I want my ballot to count for Smith if possible. But if Smith has so few votes that he cannot be elected, then I want my vote transferred to Brown, who is my second choice. If Brown is also "out of it," and it comes down to a contest between Jones and Robinson, then I want my vote to count for Jones and against Robinson."

A description of the methods of counting will show how the wishes of this voter and of every other voter are given effect to.

At the close of the poll the ballots are sorted out according to the "number one" votes for each candidate, no heed being paid to the other figures. If any candidate has then a clear majority of first-choice votes, he is elected, and the count goes no farther. But if there be no majority then the candidate who has the smallest number of these first-choice votes is declared "out of the count," and his ballots are distributed amongst the other

three candidates in accordance with the second choices thereon—that is, each candidate gets the ballots on which his name is marked “2.”

This may give some one a majority. If not, then the lowest of the three remaining candidates is excluded, as was the fourth, and his ballots are similarly transferred. When any ballot contains as second choice the name of the man already “out,” his name is passed over, and the ballot goes to the third choice.

The effect of these operations is to concentrate all the votes upon the two remaining candidates; and whichever of them is found to have the greatest number of votes, transferred or original, is declared elected.

You will notice how the foregoing plan favors the full and free choice of the electors, by encouraging the nomination of more than two candidates. In the illustration above given, Smith's friends are not afraid to give him their first-choice votes, because they know that this will not injure the chances of any other candidate if Smith cannot be elected. They know that in that event their votes will go to a stronger candidate whom they have marked as next or next choice on their ballots. All fear of “vote splitting” being thus done away with, there would be nothing to prevent the nomination of half-a-dozen candidates, or even more. Instead of asking “Is he a strong candidate?” the main question would be “Will he make a good mayor?”

It is interesting to note that in the British colony of Queensland the law provides that a system similar to the foregoing may be used in Parliamentary elections when there are more than two candidates for the seat in a single-member district.

#### MEETING-ROOM ELECTIONS.

This “absolute majority” method will be found very useful in the elections of the officers of societies, clubs, lodges and similar social and business associations. In some of these organizations a rule already exists that each elected officer must have a clear majority; and several ballotings have sometimes to be taken in order to secure this result. The friends of the weaker candidate give up the man of their first choice and cast their votes for the one they like next best; and

the process is continued until somebody gets a clear majority. But this plan is open to serious objection. It consumes much time, and tends to “log-rolling” and other undesirable things. The order of the voter's preference for the candidates ought to be decided at the time of the first balloting, not left to subsequent influences.

In many “meeting-room elections” blank ballots are used, on which the voter himself writes the candidates' names. In such cases the order of choice of the voter is indicated by the order in which he writes the names; the first name being his first choice, and so on. If after writing the names he desires to change the order of his choice, he may do so by using the figures, 1, 2, 3, etc., as above, and the figures will govern.

The use of the Hare-Spence system in meeting-room elections affords an excellent test of its workableness, and is also of great value in making it more widely known. For “single officers,” such as president and secretary, the method is as set forth above. For committees, some additional features are needed, which are described farther on.

#### ALDERMEN AND COUNCILLORS.

In the election of aldermen and councillors the evil effects of a bad voting system have full scope. It is in this sphere of action that a good or bad arrangement of electoral districts, a good or bad method of marking ballots, a good or bad method of counting votes, chiefly determine the character of our municipal councils and consequently of our municipal government.

That the people of Ontario are beginning to realize this truth is shown by the popularity of recent legislation looking towards the abolition of municipal wards. The small electoral districts known as “wards” are emphatically a bad arrangement. If they are discarded one great step will be taken towards good municipal government. What is the next step? Obviously, a change in the present voting system, if that system is a bad one. Let us examine it.

#### MULTIPLE OR BLOCK VOTING.

In the ordinary method of voting each elector has as many votes as



there are aldermen or councillors to be elected. No specific name is in common use here for this method, but as a matter of convenience we must give it some name. It has been called both the "multiple vote" and the "block vote." The last-named term is in use in Australia, and is the shorter of the two, so we will adopt it. The meaning is, of course, that you vote for a "block" of candidates instead of for one. In a city electing nine aldermen, "at large," each elector has nine votes; so that if two thousand electors go to the polls, about 18,000 votes will be registered (on 2,000 ballots); probably less, because the full franchise is not ordinarily used by every voter. Then the nine candidates having the highest number of votes are declared elected.

### MONOPOLY OF REPRESENTATION.

The block vote leads to a monopoly of representation. That is the first defect that we find, and it is bad enough. A mere section of the voters, who may be either a majority or a minority, can sweep the polls, elect all the aldermen, and get all the representation. This is monopoly with a vengeance!

Take as an illustration a city in which nine thousand voters go to the polls to elect nine aldermen. If five thousand voters unite on a ticket of nine candidates, they can elect the whole council and the other four thousand voters will not be able to elect anybody.

Each of these five thousand voters votes for 9 men, and this enables them to place their nine candidates at the top of the poll, by giving each candidate about five thousand votes. The remaining four thousand electors may unite on another ticket if they like, but they are powerless. They can only give each of their candidates four thousand votes, so that these are all placed below the candidates of the five thousand.

Consequently, these four thousand voters are disfranchised and unrepresented, although, being four-ninths of the electorate, they are entitled to elect four out of the nine councillors. Is that fair, or even decent?

### MAJORITY AND MINORITY.

Some one may say, "Oh, well, the five thousand are a majority, and the

majority must govern." Such a remark shows confusion of thought. Representation is one thing; government and legislation is another. Your city council ought to represent all the voters who come to the polls, not a mere section of them. First get a full and fair representation of the voters, then let a majority of the representatives rule when it comes to a decision, Yes or No, on any measure. And there is much to be done in any governing or executive body besides merely voting Yes and No. An intelligent minority of representatives has great weight and influence; its voice can be heard; it can present the views of those whom it represents; it can watch the majority and keep them straight if need be. These things are the clear rights of the minority, and they are denied by the use of the block vote.

### POLITICS BROUGHT IN.

The preceding illustration—five thousand and four thousand electors—is a moderate one, and affords ample margin to allow for scattering votes and for the introduction of independent candidates. Where general politics are rampant in municipal matters, and the two great parties are pretty evenly divided, the party tickets will count overwhelmingly under the block system, and independent candidates will get but few votes, because your average voter hates to throw away his vote on a man with a slim chance.

Here we put a finger on one disadvantage of abolishing the wards without providing a better plan of voting. It offers an inducement to introduce general politics into municipal affairs. The temptation thus to gain a party advantage or win a party victory would be very strong.

### GOVERNMENT BY MINORITY.

We have not yet exhausted the delightful possibilities of the block vote. Let us vary our illustration, and suppose that there are three "tickets" in the field, each nominating nine aldermen. The strongest ticket gets the votes of four thousand electors; and the other two tickets get respectively the votes of three thousand and two thousand electors. Then the majority is unrepresented. What shall we say of a system under which such an outrage is possible?



If you say that we are raising a bugaboo which could not materialize, we point you to the Toronto municipal elections of January, 1898. In Ward Six, on that occasion, the four elected aldermen received about 3,500 votes, while the various defeated candidates got, altogether, over four thousand! So that the aldermen in this ward were elected by a minority of the votes—47 per cent. The majority of the votes, amounting to 53 per cent., were thrown away on defeated candidates; that is, 53 per cent. of the voters were disfranchised and unrepresented.

We have spoken of putting extra tickets in the field; but this fact about the election of 1898 shows that monopolization of all the representatives by a minority, or by a bare majority, may result from the inherent viciousness of the method itself, and not from any deliberate or organized attempt on the part of any section.

### THE TRUE PRINCIPLE.

It is evident, therefore, that abolition of the wards ought to be followed by abolition of the multiple or block vote. In its place, let us adopt a system based on true representative principles; that is, some good system of Proportional Voting; for no system is truly representative that is not proportional. As Professor John R. Commons says:

"Voters of the same interests and beliefs should be permitted to come together according to their likings."

This they can do with the utmost freedom by means of Proportional Representation. The mere act of balloting, followed by the subsequent counting of the votes, enables the voters to divide themselves freely into as many equal groups as there are councillors or aldermen to be elected. Every group is represented by the one man of its choice, and that choice is not hampered or interfered with in any way by the other voters.

### THE HARE-SPENCE PLAN.

If, for instance, there are eighteen candidates for nine seats in the council, the weaker candidates are gradually excluded in the process of counting, and the votes cast for them are transferred to the stronger candidates until only nine remain; each of the nine being the elected representative of a group comprising about one-ninth of

the electors who voted. If in round numbers nine thousand votes have been cast, then the nine groups number a thousand each. The voters have grouped themselves, not according to location, but according to their views and opinions. They have grouped themselves according to their likings. An idea of how they do this can be gained by a brief examination of the Hare-Spence system, which is one of several plans of Proportional Representation.

If you are voting on the Hare-Spence plan in an election of nine aldermen, you mark your ballot for nine candidates (or more), in the order of your choice, with the figures 1, 2, 3, 4, 5, 6, 7, 8, 9, etc. The candidate whom you like best you mark No. 1 and so on in rotation. If your vote goes to help your first choice to be elected, then it does not count for anybody else. But if the candidate whom you have marked No. 1—your first choice—has enough votes without yours, or has so few votes that he cannot be elected, then your vote goes to the man whom you have marked No. 2. If your No. 2 does not need or cannot use your vote, then it is passed on to No. 3, and so forth. In any event your vote finally counts for only one candidate. It is best to mark the order of your preference thru the whole list of candidates so far as you would be willing to see them elected, or at least to mark several more than the number to be elected, so as to be sure that your vote will be counted for some candidate.

At each polling sub-division, when the polls close, a count is made of the first-choice votes, and the ballots are then taken to the office of the returning officer, where the counting is finished. The returning officer divides the total vote by the number of seats to be filled, which gives the "quota," or number of votes required to elect one man. In the illustration previously given, the returning officer would divide nine thousand votes by nine seats, giving a quota of one thousand.

Anyone who has a quota or more is declared elected. If he has more than a quota, his surplus ballots are transferred to those candidates who are marked on them as second choices. Then the man at the bottom of the poll, with the least number of votes, is declared "out of the count," and all his ballots are transferred to the can-

didates marked on them as second or subsequent choices. This exclusion of lowest candidates and transfer of ballots is repeated until only nine candidates remain, each of whom has now a quota or nearly so, and these are the elected ones.

The Hare-Spence system has been used with great success in many actual elections.

My limited space prevents me from going further into detail; but any reader who desires to pursue the subject further may obtain ample data by addressing the secretary or any of the officers of the Proportional Representation Society.

#### LEGISLATION REQUIRED.

Before any municipality can adopt Proportional Representation, some permissive legislation must be obtained. With this view Mr. S. Russell of Deseronto, M. P. P. for East Hastings, has twice introduced into the Ontario Legislature a bill giving municipalities the necessary powers. Following is the bill in condensed shape:

Title: "An Act allowing municipalities to adopt proportional representation."

Section 1. This Act may be cited as the Proportional Representation Act, 1900.

Section 2. In every city, town, township and village where the council is elected by a general vote (that is, without wards), the Council may pass a by-law providing for a quota system of proportional representation in election of aldermen or councillors, which by-law must be submitted to the electors before finally passing.

Section 3. Any council adopting proportional representation shall adopt also voting by ballot and all other provisions of the Municipal Act that can be made operative under the new plan, and may supplement these by such other directions and provisions as may be necessary.

Section 4. A vacancy may be filled or left unfilled. If filled it may be either by a new election or by declaring elected the highest of the losing candidates at the last general municipal election.

Section 5. Any municipal council, whether adopting proportional representation or not, may provide for electing its mayor, warden, etc., by a method of preferential balloting in which the elector marks all the candidates in the order of his choice (presumably with the figures 1, 2, 3, etc.), and then in counting the votes the candidate having the least number of first choice votes is dropped, and all his ballots are transferred to other candidates, according to the second choices on such ballots; the process being continued until one candidate has an absolute majority of all the votes cast.

Section 6. In a municipality where aldermen or councillors are elected by a general vote, if a petition be presented, signed by five per cent. of qualified electors, asking that a by-law for proportional representation or preferential voting be submitted to the electors, then the council shall prepare and submit such by-law accordingly.

#### WHAT MAY BE EXPECTED.

With Proportional Representation in operation, the inducements to personal canvassing largely disappear; because each candidate appeals only to that group or quota of the electors who are in accord with his ideas. These electors are scattered over the whole city, and are more easily and effectually reached by printed addresses on the ground of principles and character than by personal persuasion.

Proportional Representation wastes no votes. Practically every voter is represented, and the best men are brought to the front. Public indifference gives place to a deep and intelligent interest in municipal matters. Strong leaders of men take the place of the mediocre or colorless straddlers who are too often elected under the present system. *Candor and straightforwardness are promoted by the fact that a candidate appeals only to a group or quota of like-minded electors, not to half-a-dozen diverse interests.* The fairness and honesty of the system promotes similar qualities in both candidates and electors. Is it not worthy of your support and assistance?

## MUNICIPAL HOME RULE.

There seems to be a misapprehension as to what is meant by home rule for cities. It is explained in Chap. III that municipal sovereignty is desired only in distinctively local affairs and subject to broad provisions safe-guarding justice. Yet our correspondents do not all note the limitations of the doctrine set forth in Chap. III. For example, a Connecticut official writes, "Our towns cannot be trusted at all times to manage all their affairs—years ago many towns used to subscribe for R. R. stock and issue bonds for such purpose, but this was forbidden by a constitutional amendment—a salutary one as it seems to me."

We also think the amendment salutary. It is not right for a majority to vote public monies into the coffers of a private company. If public funds are used to build a railroad the railroad should belong to the public and be managed in the interest of the public. To put public money into a road to be owned by a private corporation and run for its private profit is to devote public money to a private purpose. (See Ch. J. Dillon's decision in *Hanson v. Vernon*, 27 Ia. 29, 51, 52. An act to enable towns and cities to aid in the construction of railroads to be owned and operated by a private company for private profit, held not a valid exercise of the taxing power, but unconstitutional as devoting public money to private purposes.)

No one desires that towns should "manage all their affairs" without limitation. But we believe there is a sphere of action that belongs to municipal sovereignty, and that gas, electric, telephone, street railway, and other local franchises under ordinary conditions belong in that sphere.

## WORK WITH THE LEGISLATURES.

During Dec, 1900, and the early months of 1901, the publisher sent to each member of every legislature in session, a copy of *The City for the People*, with the following letter urging vigorous effort in the direction of municipal freedom:

DEAR SIR:—This is "Legislative year," as the legislatures of a majority of the states meet in regular session this year. Next year will be an "off year," as comparatively few legislatures meet then. This year the legislatures in the following states and territories meet in regular session:

Arlzona	Kansas	New Jersey	South Dakota
Arkansas	Maine	New Mexico	Texas
California	Massachusetts	New York	Utah
Colorado	Michigan	North Carolina	Washington
Connecticut	Minnesota	North Dakota	West Virginia
Delaware	Missouri	Oklahoma	Wisconsin
Florida	Montana	Oregon	Wyoming
Idaho	Nebraska	Pennsylvania	
Illinois	Nevada	Rhode Island	
Indiana	New Hampshire	South Carolina	

An effort will be made in all of them to get more freedom for the people, particularly in purely local affairs.

Legislators should be free from annoyance by petty local affairs in localities in which they do not live. (See illustrations of special legislation in local affairs in "The City for the People," pages 398 to 402, 422 and 538).

The people in cities and towns should be free to conduct their local affairs in their own good way, so long as they do not conflict with state prerogatives.

Legislators should be free to give their entire time and talents to purely state legislation. Then they will have an opportunity to make a record that they may point to with pride.

The cry is for greater freedom for both Legislators and the People. Will it be granted? The above named states will run a race this winter for the best record in this direction. Minnesota, Washington, California and Missouri, are already far in the lead. (See these states, and also your own state, in Chapter III of "The City for the People"). What state will be first to catch up with these and "go them one better?" See inclosed forms for laws and constitutional amendments. Get the best that is here suggested passed by your legislature, if possible; if this is not possible, try the next best, and so on down to the "thinnest edge of the wedge," but *don't* be satisfied until your Legislature does *something* in this direction. Where will your state stand at the end of the race—the end of the session?

A capable and determined leader is wanted in each House of the above mentioned states, to take charge of this legislation. As this legislation is entirely non-partizan, let us have a leader for every party in every state. Who will volunteer? If *all* will volunteer to support this legislation (and can there be any reason for opposition), leading will be an easy task. The Bill or Bills submitted should be in charge of the *dominant* party in each House, in order to insure success. It is not necessary to risk defeat if the dominant party is willing to push this legislation through promptly and get the credit for the same. Party jealousies should not hinder nor hamper this legislation. Let the dominant party win the honor of passing it, and let the minority party or parties do themselves the honor of supporting it.

See that this legislation is introduced immediately.

If any bill for local legislation (see pages 398, etc., in "The City for the People") is offered, let that be a signal for so many speeches for the within suggested legislation that nothing can be done until local freedom is secured for every locality in your state. The inclosed Model Charter will help cities and towns to manage their affairs wisely, after they get their freedom.

Give the people a chance to rule themselves, and they will develop themselves in the art of governing.

If you will kindly keep me posted as to progress along this line in your state, I will keep you posted as to progress in other states. Let us have a spirited and interesting *race for local freedom*.

Yours for Local Home Rule,

C. F. TAYLOR.

Much interest was awakened and many bills have been introduced along the lines suggested in Appendix I, but it is too early yet to obtain the data necessary to summarize the results of the sessions of 1901.

In some cases we know the book has had great effect. For example, Dr. Haynes of Los Angeles, while speaking to the Second National Social and Political Conference at Detroit, about direct legislation, public ownership, etc., in the making of a new charter for Los Angeles and the board of freeholders chosen for the purpose, said in substance, "I sent to Dr. C. F. Taylor of Philadelphia for 15 copies of Professor Parsons' recent book *The City for the People*, in order to give a copy to each member of the board, and it completely won over and converted all but one of the 15 members.



Some of board in thanking me for the book expressed the opinion that it was a perfectly wonderful work."

In other cases the book does not seem to have found so liberal a reception. For example, when Rev. Dr. Washington Gladden was elected a member of the Council of Columbus, Ohio, he ordered The City for the People in sufficient quantity to present a copy to each fellow councilman and to the head of every department of the city. Yet one of the biggest fights with monopoly recorded in recent years occurred in Columbus soon after and resulted in a vote by councils giving the street railway the franchise rights they wanted with some concessions to the public, but much below Tom Johnson's offer of 3 cent fares and 21 cents an hour for employes. And this occurred not only in spite of thoro ventilation of fact and argument, but in spite of the moral power of such a man as Dr. Gladden right in the councils, and the efforts of such strong men as Tom Johnson, Frank S. Monnett and Prof. E. W. Bemis, acting with a powerful public sentiment behind them.

### LEGISLATION IN 1899 AND 1900.

A number of progressive measures have been passed by our State legislatures in the last two years in the field to which this book is devoted, and a very large number of bills have been introduced which received more or less discussion but did not pass.

The matter of deepest moment and most vital encouragement, however, is not the amount of movement that has taken place, but the fact that substantially *ALL the movement that has taken place in respect to public ownership, direct legislation, direct nominations, municipal home rule, etc.—is in their favor*—the whole legislative movement in the field we are dealing with is in the direction of broader liberty and truer government by the people, except in a few of the southern states. Even the principal general laws of '97-8 that were meant to entrench private monopoly have been swept away.

Some of the more important laws of the last two years are noted below.

#### Public Ownership.

*Iowa* authorized cities and towns to establish heating plants (ch. 19, 1900).

*Louisiana* authorized municipalities to take over private gas and electric light plants (ch. 111, 1900).

*Texas* has made it unlawful for cities and towns to lease or sell water works except by vote of the electors (ch. Referendum. 6, 1900).

*Nevada* provides that county commissioners may buy or construct telephone lines on petition of two-thirds of the taxpayers (1899).  
Initiative.

*Wisconsin* gives cities and towns the right to issue bonds for telephone lines (1899).



## Street Railways.

*Indianapolis* street railways may surrender franchises and make contract with the city not to exceed 34 years, fares not to be more than 5 cents, 6 for 25 cents, and 25 for \$1. The city may make a new contract at the end of the franchise term, or purchase the lines, or open the franchise to competition. (150 and 180, 1899.)

*Massachusetts* requires street and elevated railways, *except the Boston company*, to carry scholars to and from school at half fare, tickets to be sold in lots of ten (ch. 197, 1900).

The *Ohio* 50-year franchise law was repealed (p. 3, 1898), and the *Illinois* 50-year franchise law of 1897 was repealed and a 20-year franchise limit established (1899).

## Franchises.

*Colorado* took action relative to the purchase, by city or town, after 20 years, of any water, gas or electric light franchise hereafter granted (1899).

*Indiana* provides for the referendum on a 40 per cent. petition of the voters in incorporated towns within 30 days after the passage of any ordinance buying a water or lighting plant or granting any franchise (1899).

*Tennessee* requires the submission of franchises to popular vote in cities of 36,000 (1899).

## The 8-hour Day.

*Cal., Wash. and W. Va.* have made 8 hours a day's work on all public work (1899).

*Mass.* makes 8 hours a day for city and town employes (1899).

*Colo.* declares 8 hours a day in mines and smelters and reduction works, except in cases of emergency (1899).

*Mo.* provides that 8 hours shall be a day's work in mines at a depth of 200 feet or more, except in coal mines (1899).

Is the 8 hour rule considered a good thing only for the little mines that have no strong lobby in the legislature, or is this intended as an experiment like that of the Indian, who, when suspicious that his meat is poisoned, throws a bit to the dog he cares least about?

The ordinary man may not see why 8 hours should be a day at 200 feet, while 10 or 12 hours make a day at 190 feet, and he may have difficulty in understanding why it is necessary to limit the day in iron mines to 8 hours while leaving the day long in coal mines, but that is because he doesn't know how nice it is to work in a coal mine with the black diamonds all about, and the blacker air and the beautiful dust to breathe, and the walls to cave in now and then, or the water to come in and give one a bath free of charge, or the gas to go off and make things lively, and he doesn't possess the wisdom of the *Mo.* legislature nor comprehend the limi-

tations under which it was working, or the conditions of its existence. And in view of all the facts and of the total inaction of most of our legislatures whose sympathies don't begin to move as yet even at the depth of 200 feet and away from the beauties of coal mining,—in view of all this we are very grateful to Mo. for making 8 hours a day's work in any sort of mine at any depth attainable by man.

#### Special Legislation.

*Florida* provides against creating corporations (except universities and ship canals) by special act (Const. Amendment, adopted by the people, Nov., 1900).

*Louisiana* has made a constitutional change under this head (see below "Constitutions").

*Vermont* requires publication of amendments to city or village charters and other local bills for 3 weeks previous to the session of the legislature (1899 statutes).

#### Home Rule.

*California.* The legislature of 1900 proposed an amendment whereby cities of 3,500 may amend their charters by a *majority* (formerly 2/3) vote.

*Mississippi.* Amendment to code '92, §3039, in reference to amending charters of municipalities on the initiative of the municipal authorities, approval of the governor, and vote of the electors if 10 per cent. protest (69, 1900).

*Rhode Island* enacts that town meetings are to be called on written request of 5 per cent. (formerly 15) of the electors in towns of 3,000 (781, 1900).

*North Dakota* has authorized city councils "to adopt such ordinances, not repugnant to the constitution and laws of the State, as the general welfare of the city may demand" (40, 1899).

*New Jersey* has passed a similar law for cities under 12,000.

*South Carolina* has an enactment to the same effect (522, 1898), and now gives cities and towns the right to adopt any amendment to their charters not inconsistent with the constitution and laws of the state, on petition of a majority of the freeholders and a majority vote of the electors (42, 1899).

#### Power of the Mayor.

*New York* has increased the power of the mayor in cities of 50,000—250,000 (Rochester, Syracuse, Albany and Troy). The new law centers power and responsibility in the executive. All administrative officers except the comptroller, treasurer and assessors, are appointed by the mayor without assent of councils, and are removable by the mayor at will. Besides this it takes a  $\frac{3}{4}$  vote of the entire council to overcome the mayor's veto (N. Y. 182, 1898).

## Non-Partisan Nominations and Elections.

The *Ohio* Commission of 1898 to revise the laws relating to the organization of cities, favors "the nomination and election of all municipal officers on a non-partisan ballot."

(See pages 629, 630.)

## Voting Machines.

(On p. 489, line 34 should be *Ohio*, p. 277, 1898.)

*Iowa* in 1900 (chap. 37) joined the states authorizing the use of voting machines in all elections. The list now includes N. Y., Mich., Mass., Minn., Ohio, Ind., Neb. and Ia. Conn. provides for the use of machines in municipalities for all public officers to be elected by the voters of the municipalities. In Neb. the county or municipal board may authorize the use of voting machines, and if they do not do so a referendum on the question may be called for by a 10 per cent. petition of the voters in any ward or precinct having 100 voters or more.

*Rhode Island* in 1900 (744, 794) provided for a commission to examine voting machines and make regulations for their use by cities and towns.

## Constitutions.

(On page 431 the date of the *Iowa* Constitution should be 1857.)

The *Louisiana* Constitutional Convention of 1898 framed a new constitution which has replaced the constitution of 1879. The principal change is the establishment of educational and property qualifications for the suffrage, with a proviso that makes the limitations apply principally to negroes, so that the very poor and ignorant negro vote is excluded while the poor and ignorant white vote is mainly admitted. The exclusion of those who are both very poor and very ignorant could not be complained of if reasonable opportunities were afforded for education and the accumulation of wealth, but the discrimination between white and black is clearly unjust and we think unconstitutional also.

A commission of 3 elected by the people is established to regulate railroads, express, telegraphs, telephones, steamboats and other water craft. The Commission has extensive powers to fix rates, make regulations and investigations, and determine disputes.

The only other change I notice within the field of this book is in the clause dealing with special legislation, in the creation of corporations, etc. The old constitution forbade local or special legislation "creating corporations, or amending, renewing, extending or explaining the charters thereof; provided, that this shall not apply to the corporation of the City of New Orleans or to the organization of levee districts and parishes."

The new constitution changes the words "the corporation of the city of New Orleans" to the words "municipal corporations having a population of not less than 2,500 inhabitants," leaving the rest of the clause as it was. This permits special legislation in creating, amending, etc., city charters for places over 2,500. There is a broad

provision that "No local or special law shall be passed on any subject not enumerated in Art. 48 (the one in which the above clause occurs), unless notice of the intention to apply therefor shall have been published," in the locality affected, 30 days prior to the introduction of the bill into the General Assembly; such publication to be in the same manner as provided by law for the advertisement of judicial sales. But as the subject of municipal corporations is enumerated in Art. 48, it would seem that even the provision for notice does not apply to special municipal charter acts.

This constitutional change might be deemed a serious detriment were it not for the law of 1896 (No. 135), allowing cities and towns (except New Orleans) to make and amend their charters through the initiative and referendum. As long as this right continues, the new clause will probably do little tangible harm, but if the legislature should nullify the law of 1896 and use the new power for selfish ends, the new constitution may be found as much worse for municipal liberty as it is for the freedom of the blacks.

On the whole the record of the last two years is very encouraging, especially the progress of direct legislation (see the frequent marginal notes above, also pp. 597, 598), direct nominations (p. 612), municipal liberty, and the 8-hour day.

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•  
THE TRUE CITY  
IS THE CITY WHERE JUSTICE AND MANHOOD  
ARE MORE REGARDED THAN MONEY—  
THE CITY WHERE POWER AND PROSPERITY ARE FOR  
THE WHOLE PEOPLE  
AND NOT  
FOR THE PRIVATE POSSESSION  
OF A FEW POLITICIANS AND MONOPOLISTS.

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THE first form of government in this country was colonial. After the revolutionary war, state governments naturally succeeded the colonial governments. Then only about 3 persons in 100 lived in cities of over 8000 inhabitants, while now about 35 persons in 100 live in cities of over 8000. Then there were no cities of great size, and they were not compact as our cities, of necessity, now are. Lighting was simple and primitive; each household had its one or several "tallow dips," and there was no public lighting to speak of. Lanterns, rather than street lights, were depended upon to guide footsteps in dark streets. This was the entire situation concerning lighting, both domestic and public. As gas was not known, there could be no municipal gas question. As to water, there was a well in nearly every back yard; and if not, the corner pump was near by; and the wells in so sparse a population were not unhygienic. This was the entire water question of that time. As the people in the cities of that time could easily walk from home to business, and even walk home for mid-day dinner and back to business again in the afternoon, there was no local transportation question as we have it now. Hence, with a population so largely rural, and with our present municipal necessities unfelt and unknown, a state government fulfilled every need. But now with our population so largely urban, and our cities grown to such gigantic size, new necessities have rapidly come into being. Now we are toucht a dozen or a score of times by our city government to once by our state government; for example, the condition of the water we drink, the condition of the streets, the cost and quality of gas, which is now a necessity, the public order and our private safety, etc., etc., etc., depend upon our city government. This then has become of direct and constant importance to us. While state government was the principal need a century ago, now the importance of municipal government is by far the greatest. As those who planned our state governments in the 18th century could not foresee the needs that would arise in the 19th century, they could not be expected to provide for them. We who now see and feel these new needs, should be zealous in our endeavors until our cities are made completely free from the interference of state legislatures in local matters (freedom not needed then but sorely needed now), and until the people of our cities are also made completely free from the domination of councils and politicians, by the introduction of the initiative and referendum.





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THE CITY FOR THE PEOPLE  
 MUST BE FREE FROM ALL PRIVATE MONOPOLY  
 IN GOVERNMENT AND INDUSTRY;  
 A CITY UNDER SUCH MONOPOLIES IS NOT A CITY  
 FOR THE PEOPLE  
 BUT A CITY FOR THE MONOPOLISTS.

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